

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re: Methyl *tertiary* Butyl Ether ("MtBE")
Products Liability Litigation

Master File No. 1:00-1898
MDL No. 1358 (SAS)

This Document Relates To:

*Orange County Water District v. Unocal
Corporation, et al.*
Case No. 04 Civ. 4968 (SAS)

**DECLARATION OF LAWRENCE A. COX IN SUPPORT OF BP DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT BASED ON *RES JUDICATA***

I, Lawrence A. Cox, declare and state:

1. I am an attorney duly admitted to practice law before this Court, and am a partner with Arnold & Porter LLP, attorneys of record for Defendants Atlantic Richfield Company; BP West Coast LLC; and BP Products North America Inc. (collectively "BP Defendants"). I have personal knowledge of the facts hereinafter set forth and if called as a witness I could and would testify competently to the following.

2. Attached hereto as Exhibit A is a true and correct copy of the Final Judgment Pursuant to Stipulation and Order Thereon filed on December 17, 2002 in *People of the State of California v. Atlantic Richfield Company, etc. et al.* (Orange County Superior Court Case No. 80-40-30) (the "BP Final Judgment").

3. Attached hereto as Exhibit B is a true and correct copy of the First Amended Complaint in *People of the State of California v. Atlantic Richfield Company, etc. et al.* (Orange County Superior Court Case No. 80-40-30) filed by the Orange County District Attorney ("OCDA") on December 17, 2002.

4. In the pending case, in April 2007, Orange County Water District ("OCWD") identified two hundred thirteen (213) service stations that it alleged had contributed MTBE to

one hundred twenty seven (127) "focus plumes." Sixty (60) of the service station locations identified by OCWD in April 2007 were owned and/or operated by the BP Defendants as "ARCO branded" locations, including "ARCO branded" locations that were leased from Thrifty Oil Company ("Thrifty"). OCWD subsequently dropped various stations and "focus plumes" from the case as "non-ripe" and identified some five "focus plumes" (numbers 1, 2, 3, 8 and 9) as the plumes it selected for a bellwether trial; however, this motion concerns all locations owned or operated by the BP Defendants that were identified in April 2007, including those which may have been subsequently dropped by OCWD as "non-ripe" for purposes of trial.

5. Attached hereto as Exhibit C is a document prepared at my direction and under my supervision that lists all stations in the case owned or operated by the BP Defendants that allegedly contributed to MTBE to any of the 127 "focus plumes" identified by OCWD in April 2007, listed by focus plume, station number, and address. Exhibit C also contains a reference to the site number in the BP Final Judgment, as set forth on Exs. A and B thereto, and confirms that all the subject stations in the *OCWD* litigation for which the BP Defendants are allegedly responsible for MTBE contamination were subject to and released by the BP Final Judgment.

6. Attached hereto as Exhibit D is a true and correct copy of a memorandum dated October 20, 2000 from John Kennedy of the OCWD to OCWD Producers attaching the OCDA's Press Release of October 19, 2000 and related press coverage of the First Amended Complaint against Atlantic Richfield Company filed by the OCDA, as produced by Plaintiff in this litigation as OCWD-MTBE-001-102466 through OCWD-MTBE-001-102473.

7. Attached hereto as Exhibit E is a true and correct copy of OCWD correspondence dated July 14, 2000 to the Orange County Department of Environmental Health and the OCDA re MTBE contamination in the Irvine Area, as produced by Plaintiff in this litigation as OCWD-MTBE-001-080988 through OCWD-MTBE-001-080990.

8. Attached hereto as Exhibit F is a true and correct copy of pages 216-217 of the reporter's official transcript of the deposition of Ron Wildermuth, which was taken in this matter on February 19, 2009. Also attached as part of Exhibit F to this Declaration is a true and correct

copy of Exhibit 24 to the Wildermuth Deposition, as produced by Plaintiff in this litigation as OCWD-MTBE-001-101342 through OCWD-MTBE-001-101343.

9. Attached hereto as Exhibit G is a true and correct copy of an OC DA Press Release dated December 17, 2002 entitled "**Prosecution of Oil Company by Orange County District Attorney Sets Precedent ARCO Agrees to Clean-Up More Than One Hundred Contaminated Gas Station Sites,**" as produced by Plaintiff in this litigation as OCWD-MTBE-001-100664 through OCWD-MTBE-001-100666.

10. Attached hereto as Exhibit H is a true and correct copy of the Final Judgment Pursuant to Stipulation and Order Thereon dated February 11, 2003 as to Thrifty in *People of the State of California v. Atlantic Richfield, etc. et al.* (Orange County Sup. Ct. Case No. 80-40-30).

11. Attached hereto as Exhibit I is a true and correct copy of the Minute Order dated January 5, 2005 in *People of the State of California v. Shell Oil Company, etc. et al.* (Orange County Superior Court Case No. 80-40-31).

12. Attached hereto as Exhibit J is a true and correct copy of pages 1111-1112 of the transcript of the deposition of Anthony Brown, taken in this matter on February 1, 2012.

13. Attached hereto as Exhibit K is a true and correct copy of Exhibit 38 to the deposition of Nira Yamachika, as produced by Plaintiff in this litigation as OCWD-MTBE-001-038689 through OCWD-MTBE-001-038690.

14. Attached hereto as Exhibit L is a true and correct copy of a document entitled "Safe Drinking Water Subcommittee Meeting -- ACWA Fall Conference, Anaheim, CA" dated November 8, 2000, as produced by Plaintiff in this litigation as OCWD-MTBE-001-038623-24.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed June 4, 2014 at Los Angeles, California.



LAWRENCE A. COX

Exhibit A

204

1 ORANGE COUNTY DISTRICT ATTORNEY
 2 Tony Rackauckas, District Attorney
 3 Bill Fecchia, Senior Assistant District Attorney
 4 Joe D'Agostino, Assistant District Attorney
 5 Consumer and Environmental Protection Unit
 6 Aleta Bryant; Bar No. 125381, Deputy District Attorney
 7 401 Civic Center Drive
 8 Santa Ana, CA 92701-4575
 9 (714) 347-8720, FAX (714) 568-1250
 — In association with —
 10 Mark P. Robinson, Jr., Esq.; Bar No. 054426
 11 Allan F. Davis, Esq.; Bar No. 108269
 12 ROBINSON, CALCAGNIE & ROBINSON
 13 620 Newport Center Drive, 7th Floor
 14 Newport Beach, CA 92660
 15 (949) 720-1288, FAX (949) 720-1292
 16 — and —
 17 Ramon Rossi Lopez, Esq.; Bar No. 86361
 18 Thomas A. Schultz, Esq.; Bar No. 149578
 19 LOPEZ, HODES, RESTAINO, MILMAN & SKIKOS
 20 450 Newport Center Drive, 2nd Floor
 21 Newport Beach, CA 92660
 22 (949) 640-8222, FAX (949) 640-8294

FILED
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF ORANGE
 CENTRAL JUSTICE CENTER

DEC 17 2002

ALAN SLATER, Clerk of the Court
Nora O'Bryan
 BY NORA O'BRYAN

RECEIVED
 DEC 9 2002
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF ORANGE
 CENTRAL JUSTICE CENTER
 ATTORNEY FOR PLAINTIFF
 THE PEOPLE OF THE STATE OF CALIFORNIA

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF ORANGE - CENTRAL JUSTICE CENTER

19 THE PEOPLE OF THE STATE OF) Case No. 80-40-30
 20 CALIFORNIA)
 21 Plaintiff,) Assigned for all purposes to:
 22 vs.) Judge Raymond J. Ikola
 23 ATLANTIC RICHFIELD COMPANY, a) Department CX105
 24 Delaware corporation doing business as)
 25 ARCO; BP AMOCO CORPORATION;) Complaint filed 1/6/99
 26 ARCO CHEMICAL COMPANY; LYONDELL) 1st Amended Complaint filed 10/5/00
 27 CHEMICAL COMPANY; THRIFTY OIL) [PROPOSED] FINAL JUDGMENT
 28 COMPANY; and DOES 5 through 200,) PURSUANT TO STIPULATION AND
 inclusive;) ORDER THEREON
 Defendants.) Trial Date: January 21, 2003

LA2:649652.2

FINAL JUDGMENT PURSUANT TO
 STIPULATION AND ORDER THEREON

1 This Final Judgment Pursuant to Stipulation (this "Final Judgment") is made between the
2 Plaintiff, People of the State of California, by and through its attorney Tony Rackauckas, the
3 District Attorney of the County of Orange ("Plaintiff"), and defendants Atlantic Richfield
4 Company, BP Amoco Corporation, and ARCO Chemical Company ("Settling Defendants").
5

6 RECITALS

7 A. In this action, Plaintiff filed a civil complaint ("First Amended Complaint") in
8 Orange County against Settling Defendants, Lyondell Chemical Company and Thrifty Oil
9 Company.

10 B. Plaintiff and Settling Defendants have agreed to settle this action on the terms set
11 forth in this Final Judgment. Plaintiff believes that the resolution of the violations alleged in the
12 First Amended Complaint is fair and reasonable and fulfills the Plaintiff's enforcement objectives,
13 that no further action is warranted concerning the specific violations alleged in the First Amended
14 Complaint except as provided pursuant to the Final Judgment, and that this Final Judgment is in
15 the best interest of the general public. Notwithstanding the foregoing, Plaintiff may bring an
16 action or file a motion with the Court to enforce this Final Judgment pursuant to the terms and
17 conditions hereof.

18

19 JURISDICTION

20 1. This Court has jurisdiction of the subject matter and the parties hereto.

21

22 SETTLEMENT OF DISPUTED CLAIMS

23 2. Settling Defendants expressly deny the allegations raised by the Plaintiff in the
24 First Amended Complaint and Plaintiff's discovery responses in the above-referenced matter.
25 This Final Judgment is not an admission by Settling Defendants of any issue of law or fact in the
26 above-captioned matter or any violation of any law. The parties enter into this Final Judgment
27 pursuant to a compromise and settlement of disputed claims set forth in the First Amended
28 Complaint and Plaintiff's discovery responses for the purpose of furthering the public interest.

COSTS OF INVESTIGATION AND LITIGATION

3. Settling Defendants shall reimburse Plaintiff its cost of investigation, in the total amount of Five Million Dollars (\$5,000,000). Within fourteen business days after the entry of this Final Judgment, Settling Defendants will wire such amount to Plaintiff as follows:

Bank Name: Wells Fargo Bank
Company Name: County of Orange
Routing Number: 121000248

PLUME DELINEATION PROGRAM

4.0 Settling Defendants shall implement the program described in Sections 4.0 through 4.10 (the "Plume Delineation Program") for a cost of up to Three Million Dollars (\$3,000,000), of which up to Seven Hundred and Fifty Thousand Dollars (\$750,000) shall be used exclusively for compensation of the CONSULTANT selected pursuant to Section 4.1 below.

4.1. Plaintiff shall select an independent, third party environmental consultant to serve as "CONSULTANT." The CONSULTANT selected by Plaintiff pursuant to this Final Judgment is Dennis England, a principal in England Geosystem, Inc. The CONSULTANT will be reasonably compensated by Settling Defendants in an amount not to exceed a total of \$750,000 for the term of this Final Judgment. The CONSULTANT shall report in writing the CONSULTANT's findings and recommendations in regards to the presence of petroleum hydrocarbon compounds (including: TPHG, BTEX, and the oxygenates MTBE, TBA, DIPE, ETBE, and TAME) in the soil and groundwater (hereinafter: "PLUME") and the recommended corrective action to be undertaken by Settling Defendants with respect to the PLUME at the ARCO gas station sites in Orange County currently undergoing corrective action where Settling Defendants are the responsible party (the "Subject Sites"), pursuant to the procedure set forth in Sections 4.1 through 4.9.

1 4.2 (a) CONSULTANT shall determine whether the corrective action at each of the
2 Subject Sites is consistent with the standards set forth in the Corrective Action Guidelines. As
3 used herein, the "Corrective Action Guidelines" means either: (i) the State Water Resources
4 Control Board's "Final Draft Guidelines for Investigation and Cleanup of MTBE and other Ether-
5 Based Oxygenates," dated March 27, 2000, prepared pursuant to Executive Order D-5-99 and
6 Senate Bill 989, which provide guidelines and time frames for corrective action at sites impacted
7 by releases of gasoline containing MTBE and other oxygenates, as supplemented by the final
8 version of the " Supplemental Guidance for the Prioritization of Investigation and Cleanup of
9 Underground Storage Tank Releases Containing MtBE" adopted by the Santa Ana Regional
10 Water Quality Control Board on June 1, 2001; or (ii) a new or updated guidance document
11 adopted at some future date by the State Water Resources Control Board that provides guidelines
12 and time frames for corrective action at sites impacted by gasoline or petroleum releases, and any
13 new or updated version of the " Supplemental Guidance for the Prioritization of Investigation and
14 Cleanup of Underground Storage Tank Releases Containing MtBE" as adopted by the Santa Ana
15 Regional Water Quality Control Board on June 1, 2001.

16 (b) Based on CONSULTANT's detailed review of the Plume Delinement Report and the
17 results of any additional assessment work described in Section 4.6 below, CONSULTANT shall
18 evaluate whether the corrective action at the Subject Sites is consistent with the standards of the
19 Corrective Action Guidelines and shall recommend in writing additional actions that the
20 CONSULTANT reasonably believes are necessary to meet such standards. The CONSULTANT
21 may recommend in writing additional actions, including, but not limited to, the following tasks,
22 where reasonably necessary to make the corrective action at the Subject Sites consistent with the
23 Corrective Action Guidelines:

24 A. The drilling and installation of new wells and/or borings to further
25 analyze and delineate the PLUME at the Subject Sites pursuant to Sections 4.3 to
26 4.7, which may potentially include delineation in both the lateral and vertical
27 direction that approximates the 5 ppb MTBE contour line in groundwater, if
28

1 reasonably necessary to make the corrective action at the Subject Sites consistent
2 with the Corrective Action Guidelines;

3 B. The additional collection of soil samples at the Subject Sites, and
4 the additional collection of groundwater samples on a quarterly basis, and testing
5 data as needed, from existing and any newly installed wells at the Subject Sites;

6 C. The additional analysis of soil and groundwater samples for the
7 presence of petroleum hydrocarbon compounds, including but not limited to:
8 TPHG, BTEX, and the oxygenates MTBE, TBA, DIPE, ETBE, TAME, and other
9 gasoline derived compounds; ⁷

10 (c) The CONSULTANT may submit written reports to Settling Defendants, as the
11 Consultant deems necessary, a copy of which shall also be submitted to the appropriate regulatory
12 agency having jurisdiction over the Subject Site, the Santa Ana Regional Water Quality Control
13 Board, and to the Plaintiff, which shall include the findings and recommendations of the
14 CONSULTANT concerning the delinement of the PLUME at the Subject Sites, pursuant to
15 Section 4.5, and the nature and scope of any corrective action which, in the opinion of the
16 CONSULTANT, is reasonably necessary to make the corrective action at the Subject Sites
17 consistent with the Corrective Action Guidelines.

18 (d) Settling Defendants shall perform all corrective action in regards to the PLUME that
19 are reasonably necessary to make the corrective action at the Subject Sites consistent with the
20 Corrective Action Guidelines, as recommended in writing by the CONSULTANT, in accordance
21 with: (i) a time table consistent with the Corrective Action Guidelines, and (ii) cleanup levels for
22 petroleum hydrocarbons, BTEX, and the oxygenates MTBE, TBA, DIPE, ETBE, TAME, or other
23 gasoline-derived compounds, determined pursuant to a corrective action procedure or guidance
24 document adopted or approved by the State Water Resources Control Board, Santa Ana Regional
25 Water Quality Control Board, federal Environmental Protection Agency, or ASTM.

26 (e) In the event, however, of a reasonable and bona fide dispute presented by any of the
27 parties to this agreement as to any written corrective action recommendations by the
28 CONSULTANT, including any time table consistent with the Corrective Action Guidelines

1 and/or cleanup levels determined pursuant to the procedure set forth above, the dispute shall be
2 resolved pursuant to the dispute resolution procedures of Section 5.7. Notwithstanding anything
3 to the contrary in this Final Judgment, if the regulatory agency with jurisdiction over a Subject
4 Site refuses to approve any work recommended by CONSULTANT, Settling Defendants shall
5 have no obligation under this Final Judgment to conduct such unapproved work.

6 4.3 Settling Defendants will prepare a comprehensive report providing a detailed
7 description of the extent of delineation of the PLUME at each of the Subject Sites (the "Plume
8 Delineation Report"). The Plume Delineation Report will be prepared by Settling Defendants'
9 consultants, with appropriate California certifications, who are currently retained by Settling
10 Defendants, and will be based on: (i) a thorough review of relevant prior assessments of the
11 Subject Sites; (ii) any additional assessment and investigation work that may be conducted by
12 Settling Defendants at their election, with the concurrence of the relevant regulatory agencies, to
13 further refine the data available to delineate the PLUME; and (iii) other relevant data identified by
14 Settling Defendants' consultants. All underlying reports and analytical data on which the
15 conclusions in the Plume Delineation Report are based will be made available to the
16 CONSULTANT upon request. Settling Defendants will submit the Plume Delineation Report to
17 the CONSULTANT no later than 150 days after the entry of this Final Judgment.

18 4.4. The CONSULTANT will conduct a detailed review of the Plume Delineation
19 Report prepared by the consultants retained by the Settling Defendants, and will recommend or
20 request in writing further analysis, testing or assessment the CONSULTANT reasonably believes
21 is appropriate and consistent with the Corrective Action Guidelines in order to determine if the
22 delineation of the PLUME at each of the Subject Sites provides the information needed to identify
23 in writing corrective actions that are appropriate in light of any potential impacts the PLUME
24 may pose to human health, the groundwater resource, and the environment. This review and
25 determination will be based on appropriate scientific and technical reasoning and knowledge of
26 regulatory objectives. Ultimately the discretion for making this determination shall be in the
27 hands of the CONSULTANT subject to the approval of the court, provided that if Settling
28 Defendants object then any disputes will be resolved pursuant to the dispute resolution procedures

1 of Section 5.7. The CONSULTANT's determination as to the scope and extent of the study shall
2 not necessarily be binding on regulatory agencies in future plume delineation studies statewide.

3 4.5 If the CONSULTANT cannot conclude that the delineation of the PLUME, as set
4 forth in the Settling Defendant's Plume Delineation Report, at each of the Subject Sites provides
5 the information needed to identify corrective actions that are appropriate in light of any potential
6 impacts the PLUME may pose to human health, the groundwater resource, and the environment,
7 then the CONSULTANT will, in addition to the review described in Section 4.4 above, identify
8 the deficiencies or data gaps in the delineation work that has been completed at the relevant
9 Subject Site. The CONSULTANT will also identify and recommend in writing additional work
10 that could be conducted that would allow the CONSULTANT to reach the conclusion that the
11 delineation of the PLUME at the Subject Site is sufficient to identify the appropriate corrective
12 actions consistent with the Corrective Action Guidelines.

13 4.6 If the CONSULTANT recommends in writing additional assessment work at a
14 Subject Site that is consistent with the Corrective Action Guidelines, and the regulatory agency
15 with jurisdiction over the Subject Site approves such additional work, Settling Defendants will
16 conduct such work under the supervision of the relevant regulatory agency within a time limit
17 determined to be reasonable by the CONSULTANT. If either party disagrees with the time limit
18 determined by the CONSULTANT, the dispute shall be resolved pursuant to the dispute
19 resolution procedures of Section 5.7. Settling Defendants will submit copies of all reports that are
20 prepared in connection with completing such additional work to Plaintiff.

21 4.7 Notwithstanding the foregoing, if Settling Defendants conclude that the additional
22 work recommended in writing by the CONSULTANT is not reasonably necessary to identify the
23 corrective action that may be appropriate in light of any potential impacts the PLUME may pose
24 to human health and the environment, the dispute will be resolved pursuant to the dispute
25 resolution procedures of Section 5.7.

26 4.8 As necessary, face-to-face meetings between the CONSULTANT and Settling
27 Defendants' consultants may be scheduled to discuss issues raised by the Plume Delineation
28 Report or other written recommendation by CONSULTANT. No ex parte meetings or

1 communications will be conducted between Settling Defendants, or their consultants, and the
 2 CONSULTANT, unless and until Settling Defendants provide the Plaintiff with seventy-two (72)
 3 hours advance written notice of any meeting contemplated by Settling Defendants, so that a
 4 representative or designee of Plaintiff can attend. Settling Defendants shall provide or make
 5 arrangements for access to the Subject Sites, as well as to off-site locations if such access can be
 6 obtained on commercially reasonable terms, for the CONSULTANT, and the regulatory agency
 7 with jurisdiction over each site, for the purpose of observing site conditions or observing
 8 investigation or corrective action activities taking place on such Subject Site. The
 9 CONSULTANT (and any other designee or representative of Plaintiff) will comply with Settling
 10 Defendant's health and safety requirements when observing the Subject Sites or such off-site
 11 locations.

12 4.9 Settling Defendants shall maintain an accounting of all expenditures that Settling
 13 Defendants incur pursuant to this Plume Delineation Program. Settling Defendants shall provide
 14 Plaintiff with semi-annual statements of such expenditures, including costs incurred by Settling
 15 Defendant: (i) to prepare the Plume Delineation Report; (ii) to compensate CONSULTANT, (iii)
 16 to review the CONSULTANT's written recommendations and to attend meetings with
 17 CONSULTANT regarding such recommendations; (iv) to assist CONSULTANT, including by
 18 providing information requested by CONSULTANT, responding to CONSULTANT'S requests,
 19 accompanying CONSULTANT on site visits, and the like, and (iv) to perform tasks of the sort
 20 that would reasonably be undertaken by third party environmental consultants in order to respond
 21 to the CONSULTANT's written recommendations for further PLUME delineations and/or for
 22 corrective action to be undertaken by Settling Defendants at the Subject Sites pursuant to this
 23 Final Judgment, including without limitation preparing work plans, implementing such work
 24 plans, and preparing any necessary reports. If the parties have a bona fide dispute regarding
 25 whether any of the costs reported in the Settling Defendants' statement of expenditures were
 26 incurred pursuant to the Plume Delineation Program, the dispute shall be resolved pursuant to the
 27 dispute resolution procedures of Section 5.7. Attorneys' fees and costs incurred by Settling
 28 Defendants, and costs associated with preparing for and participating in mediations pursuant to

1 Section 5.7, shall not be deemed to be expenditures incurred pursuant to this Plume Delineation
2 Program. Records of the accounting of these expenditures, including invoices, work orders, or
3 other documentation evidencing these expenditures, shall be maintained by Settling Defendants
4 and shall be subject to review by Plaintiff on an annual basis. These records shall remain
5 available for review by Plaintiff for a period of 12 months after the termination of Settling
6 Defendants' obligation under the Plume Delineation Program.

7 4.10 Notwithstanding anything to the contrary herein, Settling Defendants' obligations
8 under the Plume Delineation Program shall terminate the earlier of five years after the date of
9 entry of this Final Judgment or the date Settling Defendants have incurred costs of \$3,000,000 in
10 implementation of the Plume Delineation Program, as demonstrated pursuant to Section 4.9. If
11 the parties have a bona fide dispute regarding whether Settling Defendants have incurred costs of
12 \$3,000,000 in implementation of the Plume Delineation Program, the dispute shall be resolved
13 pursuant to the dispute resolution procedures of Section 5.7.

INJUNCTIVE RELIEF

16 5.0 Pursuant to the provisions of Health and Safety Code Section 25299.01, Business
17 and Professions Code Section 17203, and the Court's equitable powers, Settling Defendants shall
18 take the following actions:

19 5.1 Settling Defendants shall accept and comply with the written findings and
20 recommendations of the CONSULTANT for further PLUME delineations and/or for corrective
21 action of the PLUME at the Subject Sites pursuant to the terms and conditions of the Plume
22 Delineation Program (including without limitation the termination of Settling Defendant's
23 obligations under the Plume Delineation Program pursuant to Section 4.10 above) that are
24 reasonably necessary to make the corrective action at the Subject Sites consistent with the
25 Corrective Action Guidelines; in the event, however, that Settling Defendants present a
26 reasonable and bona fide dispute as to any of the written findings or recommendations of the
27 CONSULTANT, the dispute will be resolved pursuant to the dispute resolution procedures of
28 Section 5.7.

1 5.2 Settling Defendants shall be required to promptly work with the appropriate
2 regulatory agencies to rectify any and all existing violations of the regulatory compliance
3 requirements found in Chapter 6.7 of Division 20 of the Health and Safety Code as indicated by
4 said agencies.

5 5.3 Effective upon entry of this Final Judgment, Settling Defendants, and each of their
6 subsidiaries, corporate parents and Affiliates, and all successors and assigns of the Settling
7 Defendants, are hereby permanently enjoined and restrained under California Health and Safety
8 Code Sections 25299.01 and 25299.04, in the County of Orange, from violating the following
9 requirements regulating underground storage tanks:

10 (1) Engaging in any acts or practices which violate the corrective action
11 requirements of the Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989, as
12 codified in Chapter 6.75 of Division 20 of the Health and Safety Code and the corrective action
13 requirements set forth in Title 23 of the California Code of Regulations, Division 3, Chapter 16,
14 Article, sections 2720 through 2727;

15 (2) Failing to implement, comply with or respond, within the time required
16 by law, to any request, directive or demand of the Orange County Health Care Agency, or of any
17 other agency, board, department or entity charged by law with the implementation or enforcement
18 of such laws, regarding the ownership, operation, installation, maintenance, upgrade, repair,
19 permitting, closure, investigation, monitoring or testing of any underground storage tank or
20 related underground storage tank system owned or operated by Settling Defendants, or for which
21 Settling Defendants are otherwise the responsible party, or any recording, reporting or abatement
22 activities related to any such underground storage tanks or underground storage tank systems, in
23 each case to the extent required by applicable law.

24 5.4 If Settling Defendants are deficient in the performance of the requirements in this
25 Final Judgment after any relevant dispute resolution procedure set forth in this Final Judgment,
26 and have failed to commence to cure such deficiency within sixty days after the Plaintiff has
27 notified Settling Defendants in writing of this deficiency pursuant to Section 6.2 below, such
28 deficiency shall constitute a violation of the injunction. If the Plaintiff sends such a notice, the

1 Plaintiff and Settling Defendants shall meet and confer in good faith in an effort to resolve any
2 alleged violation of this Final Judgment. If a resolution cannot be achieved by the parties, the
3 matter will be mediated by Judge Daniel Weinstein (or another mediator approved by both
4 parties). The costs of said mediator in connection with the resolution of said matter shall be
5 borne by Settling Defendants; provided, however, that after three mediations hereunder, the
6 mediator can allocate the costs of mediation to Plaintiff if the mediator determines that such an
7 allocation is equitable considering the reasonableness or unreasonableness of the Plaintiff's
8 position on the matter that was the subject of the dispute. If the parties cannot reach resolution
9 through the mediator, Plaintiff may pursue any and all remedies Plaintiff may have against
10 Settling Defendants at law or in equity, including but not limited to filing a motion with the Court
11 to compel Settling Defendants to comply with the terms and conditions of this injunction.

12 5.5 Notwithstanding anything to the contrary herein, it will not be a breach of Settling
13 Defendants' obligations under this Final Judgment if Settling Defendants are unable to perform
14 (including, without limitation, by meeting a time limit set by the CONSULTANT hereunder) due
15 to a force majeure event, such as a physical condition of the site that makes work materially more
16 difficult than anticipated or makes it impossible to proceed with the planned work, inability to
17 obtain required surface entry rights and access necessary for the conduct of work, or inability to
18 obtain reasonable governmental permits or approval of work. Settling Defendants must use
19 reasonable efforts to anticipate, and avoid delay that may be caused by, a force majeure event.

20 5.6 Settling Defendants' obligations hereunder shall terminate five years after the date
21 of entry of this Final Judgment.

DISPUTE RESOLUTION

24 5.7 Except as otherwise expressly stated herein, in the event of a reasonable and bona
25 fide dispute presented by any of the parties to this Final Judgment, the parties agree that the
26 dispute will be mediated by Judge Daniel Weinstein (or another mediator approved by both
27 parties). The costs of said mediator in connection with the resolution of said dispute shall be
28 borne by Settling Defendants, provided, however, that after three mediations hereunder, the

1 mediator can allocate the costs of mediation to Plaintiff if the mediator determines that such an
2 allocation is equitable considering the reasonableness or unreasonableness of the Plaintiff's (or
3 CONSULTANT'S) position on the matter that was the subject of the dispute. If the parties
4 cannot reach resolution through the mediator, the dispute shall be submitted to Honorable
5 Raymond Ikola, or his court-appointed judicial successor for resolution.

6 **MATTERS COVERED BY THIS FINAL JUDGMENT**

7 6.0 Except for the retained jurisdiction of the court as set forth in section 6.3 below,
8 this Final Judgment is a final and binding resolution and settlement of all claims, violations, or
9 causes of action that were alleged by the First Amended Complaint and Plaintiff's discovery
10 responses against Settling Defendants, or could have been asserted, based on the facts alleged in
11 the First Amended Complaint and Plaintiff's discovery responses, against:

12 (i) each of the Settling Defendants and each of their subsidiaries, corporate parents,
13 Affiliates (including, without limitation, BP West Coast Products L.L.C., BP Products North
14 America Inc., BP Company North America Inc., BP Corporation North America Inc., BP
15 America Inc., BP p.l.c., ARCO Pipeline Company, ARCO Oil and Gas Company, and ARCO Oil
16 Refining Company), successors, heirs, assigns, and their respective officers, directors, partners,
17 employees, representatives, and agents, dealers, franchisees, and facility operators of the stations
18 listed in Exhibit A ("Covered Defendant Parties"), or
19

20 (ii) Thrifty Oil Company, its Affiliates, and their respective officers, directors, partners,
21 employees, successors, assigns and Affiliates ("Thrifty Parties"), solely to the extent such claims,
22 violations or causes of actions arise from Settling Defendants' alleged violations of Operational
23 Compliance Requirements at the stations listed in Exhibit B (which are stations owned by Thrifty
24 Oil Co. or its Affiliates and leased by Settling Defendants). As used herein, "Operational
25 Compliance Requirements" means the legal obligations of Settling Defendants relating to the
26
27
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1 day-to-day operation of underground storage tank equipment, as set forth in Sections 25284-
2 25296 and 25298-25299 of the Health & Safety Code, and Sections 2630-2652 and 2660-2714 of
3 title 23 of the California Code of Regulations. Operational Compliance Requirements do not
4 include legal obligations relating to corrective action or remediation of releases from underground
5 storage tanks.

6 Except as set forth in Section 6.0(ii) and Section 6.1(ii): (a) this Final Judgment shall not
7 operate as a release, dismissal or retraxit as to any party not specifically identified as a "Settling
8 Defendant" in this judgment; (b) Plaintiff's causes of action as against Defendants Thrifty Oil
9 Company and Lyondell Chemical Company ("Non-Released Parties") as set forth in the First
10 Amended Complaint, shall not be affected by this Final Judgment; (c) it is not the intent of
11 Plaintiff to dismiss, release, discharge or diminish Plaintiff's claims and actions against the Non-
12 Released Parties, including Thrifty Oil Company and Lyondell Chemical Company; (d) Plaintiff
13 would not be entering into this stipulated judgment if Plaintiff knew or suspected that the affect of
14 the judgment would be to release, dismiss or discharge Plaintiff's actions or claims as against the
15 Non-Released Parties; and (e) Plaintiff does hereby expressly preserve the Plaintiff's actions and
16 claims against the Non-Released Parties.

17 The provisions of this section 6.0 are expressly conditioned on the Settling Defendants'
18 full payment of the amount specified in Section 3 above by the deadlines specified in the Section
19 3 above and their full satisfaction of the Plume Delineation Program; provided, however, that
20 after full payment of such amount, the provisions of this section 6.0 will remain in full force and
21 effect unless and until the Court makes a final determination that Settling Defendants have not
22 fully satisfied Section 3.0 and the Plume Delineation Program.

23 As used herein, "Affiliate" means a person that directly, or indirectly through one or more
24 intermediaries, controls, or is controlled by, or is under common control with, the person

1 specified. This Final Judgment shall be binding upon and shall inure to the benefit of the parties,
2 including the parties listed in subclauses (i) and (ii) above.

3 6.1 This Final Judgment also constitutes a release from any known or unknown past or
4 present claims, violations, or causes of action that were or could have been asserted in the First
5 Amended Complaint against Covered Defendant Parties with regard to any and all existing or
6 potential demands, causes of action, equitable or legal claims, obligations, damages, losses, fines,
7 penalties and liabilities related to underground storage tank systems, the unauthorized release of
8 petroleum product, or additive or constituent of such petroleum product (including but not limited
9 to TPH, BTEX, MTBE and other fuel oxygenates); the use of MTBE and/or other fuel oxygenates
10 in gasoline, or any alleged failure to assess, remediate, or otherwise take corrective action in
11 response to any such unauthorized release, at the sites listed in Exhibit A, whether asserted or
12 unasserted or known or unknown, arising out of or connected with any act, cause, matter, or thing
13 stated, claimed, alleged, or that could have been alleged in any pleading, records, or other papers
14 filed in this lawsuit or that may be based upon, related to or connected with any of the matters
15 referred to in any such pleadings, records, or other papers. This Final Judgment also constitutes a
16 release from any known or unknown past or present claims, violations, or causes of action that
17 were or could have been asserted in the First Amended Complaint against the Thrifty Parties
18 solely to the extent such known or unknown past or present claims, violations or causes of actions
19 arise from Settling Defendants' alleged violations of Operational Compliance Requirements at the
20 stations listed in Exhibit B. Except as set forth in the preceding sentence, this Final Judgment
21 does not release any claims, violations, or causes of action against the Thrifty Parties. The release
22 in this Section 6.1 does not include unknown future violations relating to the facilities listed on
23 Exhibit A.
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NOTICE

6.2 All submissions and notices required by this Consent Judgment shall be sent to:

For Plaintiff:

Tony Rackaukas, Esq.
District Attorney
Orange County District Attorney's Office
Consumer and Environmental Protection Unit
401 Civic Center Drive
Santa Ana, CA 92701-4575

and to:

Mark P. Robinson, Jr., Esq.
Robinson, Calcagnie & Robinson
620 Newport Center Drive, 7th Floor
Newport Beach, CA 92660

For Settling Defendants:

Deborah P. Felt, Esq.
BP Legal Western Region
333 South Hope Street, Room 2048
Los Angeles, California 90071

and to:

James R. Asperger, Esq.
O'Melveny & Myers LLP
400 South Hope Street
Los Angeles, California 90071-2809

Any party may change the address for purpose of notices to that party by a notice specifying a new address, but no such change is effective until it is actually received by the party sought to be charged with its contents. All notices and other communications required or permitted under this Final Judgment which are addressed as provided in this Section 6.2 are effective upon delivery if delivered personally or by overnight mail, or are effective five (5) days following deposit in the United States mail, postage prepaid, if delivered by mail.

JURISDICTION RETAINED

1 6.3 Jurisdiction is retained for the purpose of enabling any party to this Final Judgment
2 to apply to the Court at any time for such further orders and directions as may be deemed
3 necessary or appropriate for the construction of or the carrying out of this Final Judgment.

4 6.4 This Final Judgment will go into effect immediately upon entry hereto. Entry is
5 authorized immediately upon filing.

6 6.5 This Final Judgment may be executed by the parties in counterpart, and when a
7 copy is signed by an authorized representative of each party, the stipulation shall be effective as if
8 a single document were signed by all parties.

9 6.6 This Final Judgment shall not serve to bar, estop, alter, supersede, or interfere
10 with, any investigation, action, order, request, demand or directive of any regulatory agency
11 having jurisdiction over the underground storage tank systems at any of the Subject Sites,
12 including any order, directive or demand by the Orange County Health Care Agency, the
13 applicable Regional Water Quality Control Board, or the State Water Resources Control Board
14 pursuant to any of the laws and regulations pertaining to underground storage tanks. This Final
15 Judgment shall not alter or affect the obligations of Settling Defendants to comply with all laws
16 and regulations pertaining to underground storage tanks, including, but not limited to (in each
17 case to the extent applicable): Health and Safety Code, Chapters 6.7 and 6.75; Water Code
18 sections 13285 and 13350; Fish and Game Code sections 5650 and 5650.1; California Code of
19 Regulations, Title 23, Division 3, Chapter 16, the underground storage tank regulations, and any
20 other applicable laws, statutes, and regulations, and any directive or order of a regulatory agency
21 pursuant to such laws and regulations.

22 6.7 This Final Judgment supersedes all previous contracts and agreements and
23 constitutes the entire Final Judgment between or among the parties, and no oral statement or prior
24 written material not specifically incorporated herein shall be of any force or effect.

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OFFICE OF THE ORANGE COUNTY DISTRICT
ATTORNEY

By Tony Rackauckas
Attorneys for Plaintiff The People of
The State Of California

Approved as to Form:

ROBINSON, CALCAGNIE & ROBINSON

By Mark P. Robinson, Jr.
Attorneys for Plaintiff The People of
The State Of California

LOPEZ, HODES, RESTAINO, MILMAN &
SKIKOS

By Ramon Rossi Lopez
Attorneys for Plaintiff The People of
The State Of California

BP AMOCO CORPORATION

By: Daniel B. Pinkert, Corporate Secretary,
BP Corporation North America Inc.

ATLANTIC RICHFIELD COMPANY

By John Wales
Its Executive Vice President and
Chief Operating Officer

Approved as to Form:

O'MELVENY & MYERS LLP

By James R. Asperger
Attorneys for Settling Defendants

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OFFICE OF THE ORANGE COUNTY DISTRICT
ATTORNEY

By _____
Tony Rackauckas
Attorneys for Plaintiff The People of
The State Of California

Approved as to Form:

ROBINSON, CALCAGNIE & ROBINSON

By _____
Mark P. Robinson, Jr.
Attorneys for Plaintiff The People of
The State Of California

LOPEZ, HODES, RESTAINO, MILMAN &
SKIKOS

By _____
Ramon Rossi Lopez
Attorneys for Plaintiff The People of
The State Of California

BP AMOCO CORPORATION

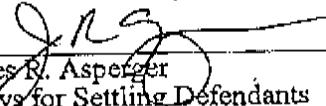
By:
Daniel B. Pinkert, Corporate Secretary,
BP Corporation North America Inc.

ATLANTIC RICHFIELD COMPANY

By _____
Its _____

Approved as to Form:

O'MELVENY & MYERS LLP

By 
James R. Asperger
Attorneys for Settling Defendants

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OFFICE OF THE ORANGE COUNTY DISTRICT
ATTORNEY

By Tony Rackauckas
Attorneys for Plaintiff The People of
The State Of California

Approved as to Form:

ROBINSON, CALCAGNIE & ROBINSON

By Mark P. Robinson, Jr.
Attorneys for Plaintiff The People of
The State Of California

LOPEZ, HODES, RESTAINO, MILMAN &
SKIKOS

By Ramon Rossi Lopez
Attorneys for Plaintiff The People of
The State Of California

BP AMOCO CORPORATION

By: Daniel B. Pinkert
Daniel B. Pinkert, Corporate Secretary,
BP Corporation North America Inc.

ATLANTIC RICHFIELD COMPANY

By _____

Its _____

Approved as to Form:

OMELVENY & MYERS LLP

By James R. Asperger
Attorneys for Settling Defendants

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OFFICE OF THE ORANGE COUNTY DISTRICT
ATTORNEY

By Tony Packaukas
Tony Packaukas
Attorneys for Plaintiff The People of
The State Of California

Approved as to Form:

ROBINSON, CALCAGNIE & ROBINSON

By Mark P. Robinson, Jr.
Mark P. Robinson, Jr.
Attorneys for Plaintiff The People of
The State Of California

LOPEZ, HODES, RESTAINO, MILMAN &
SKIKOS

By Ramon Rossi Lopez
Ramon Rossi Lopez
Attorneys for Plaintiff The People of
The State Of California

BP AMOCO CORPORATION

By:
Daniel B. Pinkert, Corporate Secretary,
BP Corporation North America Inc.

ATLANTIC RICHFIELD COMPANY

By _____
Its _____

Approved as to Form:

O'MELVENY & MYERS LLP

By James R. Asperger
James R. Asperger
Attorneys for Settling Defendants

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OFFICE OF THE ORANGE COUNTY DISTRICT
ATTORNEY

By _____
Tony Rackauckas
Attorneys for Plaintiff The People of
The State Of California

Approved as to Form:

ROBINSON, CALCAGNIE & ROBINSON

By 
Mark P. Robinson, Jr.
Attorneys for Plaintiff The People of
The State Of California

LOPEZ, HODES, RESTAINO, MILMAN &
SKIKOS 

By _____
Ramon Rossi Lopez
Attorneys for Plaintiff The People of
The State Of California

BP AMOCO CORPORATION

By:
Daniel B. Pinkert, Corporate Secretary,
BP Corporation North America Inc.

ATLANTIC RICHFIELD COMPANY

By _____
Its _____

Approved as to Form:

O'MELVENY & MYERS LLP

By _____
James R. Asperger
Attorneys for Settling Defendants

ORDER

It appearing to the Court that the Plaintiff and Settling Defendants have stipulated and consented to the entry of this Final Judgment, and the Court having considered the matter, the pleadings, and this stipulation, and **GOOD CAUSE APPEARING, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT JUDGMENT BE ENTERED ACCORDINGLY. IT IS SO ORDERED.**

Dated: 12-17-02


The Honorable Raymond J. Ikola
Judge of the Superior Court

EXHIBIT

A

ORANGE COUNTY SITES
EXHIBIT A

ITEM #	ADDRESS	CITY	STATE	ZIP CODE	COUNTY	MAP NUMBER
1	100 N TUSTIN AVE	ORANGE	CA	92688	ORANGE	
2	101 N PLACENTIA	FULLERTON	CA	92632	ORANGE	
3	2100 SE BRISTOL ST	NEWPORT BEACH	CA	92663	ORANGE	
4	1700 W I.A PALMA AVE	ANAHEIM	CA	92801	ORANGE	
5	302 W FIRST ST	SANTA ANA	CA	92701	ORANGE	
6	34342 PACIFIC COAST HWY	DANA POINT	CA	92629	ORANGE	
7	13482 BROOKHURST ST	GARDEN GROVE	CA	92648	ORANGE	
8	1000 W VALENCIA DR	FULLERTON	CA	92632	ORANGE	
9	1201 S BROOKHURST ST	ANAHEIM	CA	92801	ORANGE	
10	2546 W FIRST STREET	SANTA ANA	CA	92701	ORANGE	
11	9001 GARDEN GROVE BLVD	GARDEN GROVE	CA	92648	ORANGE	
12	14511 BROOKHURST ST	WESTMINSTER	CA	92687	ORANGE	
13	1202 E ORANGETHORPE AVE	FULLERTON	CA	92632	ORANGE	
14	13742 RED HILL AVE	TUSTIN	CA	92780	ORANGE	
15	2090 BRISTOL STREET	COSTA MESA	CA	92626	ORANGE	
16	883 N. TUSTIN AVE	TUSTIN	CA	92780	ORANGE	
17	6370 MANCHESTER AVE	BUENA PARK	CA	90621	ORANGE	
18	7090 KNOTT AVE	BUENA PARK	CA	90621	ORANGE	
19	6082 WESTMINSTER BLVD	WESTMINSTER	CA	90687	ORANGE	
20	1000 N STATE COLLEGE BLVD	ANAHEIM	CA	92801	ORANGE	
21	5971 LINCOLN AVENUE	BUENA PARK	CA	90621	ORANGE	
22	26851 ORTEGA HWY	SAN JUAN CAPISTRANO	CA	92675	ORANGE	
23	5012 LINCOLN AVE	CYPRESS	CA	90630	ORANGE	
24	301 S EUCLID AVE	ANAHEIM	CA	92801	ORANGE	
25	16502 BOLSA CHICA ST	HUNTINGTON BEACH	CA	92649	ORANGE	
26	16751 YORBA LINDA	YORBA LINDA	CA	92688	ORANGE	
27	14244 NEWPORT AVE	TUSTIN	CA	92780	ORANGE	
28	16742 BEACH BLVD	HUNTINGTON BEACH	CA	92649	ORANGE	
29	16501 GOLDENWEST ST	HUNTINGTON BEACH	CA	92649	ORANGE	
30	18025 MAGNOLIA ST	FOUNTAIN VALLEY	CA	90535	ORANGE	

ORANGE COUNTY SITES
EXHIBIT A

FILE NUMBER	ADDRESS	CITY	STATE	ZIP CODE	PHONE NUMBER	FAX NUMBER
31 01912	13480 BROOKHURST ST	FOUNTAIN VALLEY	CA	ORANGE		
32 01956	26001 LA PAZ ROAD	MISSION VIEJO	CA	ORANGE		
33 01969	7760 CRESCENT AVE	BUENA PARK	CA	ORANGE		
34 01973	4988 BALL ROAD	CYPRESS	CA	ORANGE		
35 01977	2302 N GRAND AVE	SANTA ANA	CA	ORANGE		
36 01994	700 S STATE COLLEGE BLVD	ANAHEIM	CA	ORANGE		
37 03013	23742 EL TORO RD	EL TORO	CA	ORANGE		
38 03016	12422 VALLEY VIEW STREET	GARDEN GROVE	CA	ORANGE		
39 03023	801 S. MAGNOLIA AVE	ANAHEIM	CA	ORANGE		
40 03042	13331 EUCLID AVE	GARDEN GROVE	CA	ORANGE		
41 03045	14231 RED HILL AVE	TUSTIN	CA	ORANGE		
42 03048	27682 CROWN VALLEY PKWY	MISSION VIEJO	CA	ORANGE		
43 03053	5981 WARNER AVE	HUNTINGTON BEACH	CA	ORANGE		
44 03078	1935 E KATELLA AVE	ORANGE	CA	ORANGE		
45 03080	2840 E IMPERIAL HWY	FULLERTON	CA	ORANGE		
46 03083	3470 FAIRVIEW	COSTA MESA	CA	ORANGE		
47 03085	3361 S. BRISTOL	SANTA ANA	CA	ORANGE		
48 03088	5700 E LA PALMA	ANAHEIM	CA	ORANGE		
49 03091	14493 CULVER DRIVE	IRVINE	CA	ORANGE		
50 03094	530 N BROOKHURST ST	ANAHEIM	CA	ORANGE		
51 03101	25122 MARGUERITE PKWY	MISSION VIEJO	CA	ORANGE		
52 03102	23821 ALICIA PRKwy	MISSION VIEJO	CA	ORANGE		
53 05038	1620 N BROADWAY	SANTA ANA	CA	ORANGE		
54 05084	460 EAST SEVENTEETH STREET	COSTA MESA	CA	ORANGE		
55 05111	2749 N EL CAMINO REAL	SAN CLEMENTE	CA	ORANGE		
56 05139	2401 LINCOLN AVE	ANAHEIM	CA	ORANGE		
57 05147	2245 S MAIN ST	SANTA ANA	CA	ORANGE		
58 05186	1450 BAKER STREET	COSTA MESA	CA	ORANGE		
59 05202	12602 HARBOR BLVD	GARDEN GROVE	CA	ORANGE		
60 05831	24181 MOULTON PKWY	LAGUNA HILLS	CA	ORANGE		

ORANGE COUNTY SITES
EXHIBIT A

LINE NUMBER	ADDRESS	CITY	STATE	ZIP CODE	PHONE NUMBER	TYPE
61	05881	9511 VALLEY VIEW ST	CYPRESS	CA	ORANGE	
62	05907	27491 LA PAZ RD	LAGUNA NIGUEL	CA	ORANGE	
63	05912/01998	5472 ORANGETHORPE AVE	LA PALMA	CA	ORANGE	
64	05994	300 BRISTOL ST	COSTA MESA	CA	ORANGE	
65	05999	1801 S STATE COLLEGE BLVD	ANAHEIM	CA	ORANGE	
66	06038	13142 GOLDENWEST ST	WESTMINSTER	CA	ORANGE	
67	06060	21452 BROOKHURST ST	HUNTINGTON BEACH	CA	ORANGE	
68	06068	490 PACIFIC COAST HWY	SEAL BEACH	CA	ORANGE	
69	06071	3414 S MAIN ST	SANTA ANA	CA	ORANGE	
70	06079	3901 E RIVERDALE AVE	ANAHEIM	CA	ORANGE	
71	06085	1222 E FIRST ST	SANTA ANA	CA	ORANGE	
72	06110	1201 E IMPERIAL HWY	PLACENTIA	CA	ORANGE	
73	06115	17520 BROOKHURST ST	FOUNTAIN VALLEY	CA	ORANGE	
74	06131	3201 HARBOR BLVD	COSTA MESA	CA	ORANGE	
75	06132	2445 E DALI RD	ANAHEIM	CA	ORANGE	
76	06160	13361 HARBOR BLVD	GARDEN GROVE	CA	ORANGE	
77	06191	17502 GOLDENWEST ST	HUNTINGTON BEACH	CA	ORANGE	
78	06226	102 E YCRBA LINDA BLVD	PLACENTIA	CA	ORANGE	
79	09511	120 E IMPERIAL	BREA	CA	ORANGE	
80	09512	2018 W 17TH ST	SANTA ANA	CA	ORANGE	
81	09539	2937 E CHAPMAN AVE	ORANGE	CA	ORANGE	
82	09549	14121 NEWPORT AVE	TUSTIN	CA	ORANGE	
83	09550	291 S TUSTIN ST	ORANGE	CA	ORANGE	
84	09555	304 S MAGNOLIA AVE	ANAHEIM	CA	ORANGE	
85	09558	17475 BROOKHURST	FOUNTAIN VALLEY	CA	ORANGE	
86	09589	799 W 19TH ST	COSTA MESA	CA	ORANGE	
87	09593	1539 S STANDARD AVE	SANTA ANA	CA	ORANGE	
88	09594	751 BAKER ST	COSTA MESA	CA	ORANGE	
89	09604	7510 ORANGETHORPE AVE	BUENA PARK	CA	ORANGE	
90	09675	101 E WHITTIER BLVD	LA HABRA	CA	ORANGE	

ORANGE COUNTY SITES
EXHIBIT A

ITEM	NUMBER	ADDRESS	CITY	STATE	ZIP CODE	PHONE NUMBER	FAX NUMBER
91	09876	718 S BREA BLVD	BREA	CA	ORANGE		
92	09877	2351 E ORANGETHORPE	FULLERTON	CA	ORANGE		
93	09725	2811 W LINCOLN AVE	ANAHEIM	CA	ORANGE		
94	09726	300 S BROOKHURST ST	ANAHEIM	CA	ORANGE		
95	09727	2101 S HARBOR BLVD	ANAHEIM	CA	ORANGE		
96	09728	2800 W BALL ROAD	ANAHEIM	CA	ORANGE		
97	09729	11500 BEACH BLVD	STANTON	CA	ORANGE		
98	09730	727 S EAST ST	ANAHEIM	CA	ORANGE		
99	09731	3101 E LA PALMA	ANAHEIM	CA	ORANGE		
100	09732	2493 N TUSTIN	ORANGE	CA	ORANGE		
101	09733	825 W KATELLA AVE	ORANGE	CA	ORANGE		
102	09734	6311 WESTMINSTER AVE	WESTMINSTER	CA	ORANGE		
103	09735	13501 MAGNOIA ST	GARDEN GROVE	CA	ORANGE		
104	09736	13511 EUCLID ST	GARDEN GROVE	CA	ORANGE		
105	09738	2730 W MCFADDEN AVE	SANTA ANA	CA	ORANGE		
106	09739	2940 N BRISTOL ST	SANTA ANA	CA	ORANGE		
107	09740	801 N BRISTOL ST	SANTA ANA	CA	ORANGE		
108	09741	324 S GRAND AVE	SANTA ANA	CA	ORANGE		
109	09742	15501 EDWARDS STREET	HUNTINGTON BEACH	CA	ORANGE		
110	09743	18520 BROOKHURST	FOUNTAIN VALLEY	CA	ORANGE		
111	09744	18975 MAGNOLIA	FOUNTAIN VALLEY	CA	ORANGE		
112	09745	19971 BEACH BLVD	HUNTINGTON BEACH	CA	ORANGE		
113	09746	2021 NEWPORT BLVD	COSTA MESA	CA	ORANGE		
114	09747	590 S PACIFIC COAST HWY	LAGUNA BEACH	CA	ORANGE		
115	09748	590 CAMINO DE ESTRELLA	SAN CLEMENTE	CA	ORANGE		
116	70328	890 N. BATAVIA STREET	ORANGE	CA	ORANGE		
117	70342	13871 RED HILL AVE	TUSTIN	CA	ORANGE		
118	70483	1490 S HARBOR BLVD	LA HABRA	CA	ORANGE		
119	71051	2804 W LA PALMA	ANAHEIM	CA	ORANGE		
120	81205	480 N GLASSELL ST	ORANGE	CA	ORANGE		

ORANGE COUNTY SITES
EXHIBIT A

ITEM	PERMIT NO.	ADDRESS	CITY	STATE	ZIP	PHONE	FAX	ADDN	TYPE	CLASS	PERMIT
121	81258	2721 W EDINGER AVE	SANTA ANA	CA	92707	714-506-1000			ORANGE		
122	81420	2045 COMMONWEALTH	FULLERTON	CA	92632	714-428-1000			ORANGE		
123	81451	6002 BOLSA AVE	HUNTINGTON BEACH	CA	92648	714-890-1000			ORANGE		
124	81652	2791 E LINCOLN AVE	ANAHEIM	CA	92801	714-777-1000			ORANGE		
125	81675	519 S HARBOR BLVD	FULLERTON	CA	92632	714-428-1000			ORANGE		
126	81712	3003 NEWPORT BLVD	COSTA MESA	CA	92626	714-506-1000			ORANGE		
127	81759	2490 FAIRVIEW RD	COSTA MESA	CA	92626	714-506-1000			ORANGE		
128	81762	422 DE LA ESTRELLA	SAN CLEMENTE	CA	92675	714-436-1000			ORANGE		
129	81782	11171 LOS ALAMITOS BLVD	LOS ALAMITOS	CA	90637	714-536-1000			ORANGE		
130	81849	23611 LA PALMA AVE	YORBA LINDA	CA	92688	714-999-1000			ORANGE		
131	81850	301 S ANAHEIM BLVD	ANAHEIM	CA	92801	714-777-1000			ORANGE		
132	81883	1131 S MAIN ST	SANTA ANA	CA	92701	714-506-1000			ORANGE		
133	81887/01579	1124 E CHAPMAN AVE	FULLERTON	CA	92632	714-428-1000			ORANGE		
134	81904	10975 EDINGER AVE	FOUNTAIN VALLEY	CA	92708	714-506-1000			ORANGE		
135	81955	9472 KATELLA AVE	ANAHEIM	CA	92801	714-777-1000			ORANGE		
136	81991	20572 LAKE FOREST DR	LAKE FOREST	CA	92630	714-506-1000			ORANGE		
137	81994	12931 GARDEN GROVE BLVD	GARDEN GROVE	CA	92634	714-506-1000			ORANGE		
138	82008	18972 BEACH BLVD	HUNTINGTON BEACH	CA	92648	714-890-1000			ORANGE		
139	82048	1037 W BALL RD	ANAHEIM	CA	92801	714-777-1000			ORANGE		
140	82051	2602 NEWPORT BLVD	COSTA MESA	CA	92626	714-506-1000			ORANGE		
141	82075	29850 SANTA MARGARITA PKY	SANTA MARGARITA	CA	92679	714-436-1000			ORANGE		
142	82097	8032 GARDEN GROVE BLVD	GARDEN GROVE	CA	92634	714-506-1000			ORANGE		
143	82215	1401 E LAMBERT ROAD	LA HABRA	CA	90637	714-536-1000			ORANGE		

EXHIBIT

B

THRIFTY SITES LEASED BY ARCO IN ORANGE COUNTY
EXHIBIT B

NUMBER ORANGE	ADDRESS	CITY	STATE	COUNTY
1	09500 704 N BRISTOL	SANTA ANA	CA	ORANGE
2	09511 120 E IMPERIAL	BREA	CA	ORANGE
3	09512 2016 W 17TH ST	SANTA ANA	CA	ORANGE
4	09539 2937 E CHAPMAN AVT	ORANGE	CA	ORANGE
5	09549 14121 NEWPORT AVE	TUSTIN	CA	ORANGE
6	09550 291 S TUSTIN ST	ORANGE	CA	ORANGE
7	09555 304 S MAGNOLIA AVE	ANAHEIM	CA	ORANGE
8	09556 17475 BROOKHURST	FOUNTAIN VALLEY	CA	ORANGE
9	09585 1881 W BALL	ANAHEIM	CA	ORANGE
10	09589 799 W 19TH ST	COSTA MESA	CA	ORANGE
11	09593 1539 S STANDARD AVE	SANTA ANA	CA	ORANGE
12	09594 761 BAKER ST	COSTA MESA	CA	ORANGE
13	09604 7510 ORANGETHORPE AVE	BUENA PARK	CA	ORANGE
14	09675 101 E WHITTIER BLVD	LA HABRA	CA	ORANGE
15	09676 718 S BREA BLVD	BREA	CA	ORANGE
16	09677 2351 E ORANGETHORPE	FULLERTON	CA	ORANGE
17	09725 2811 W LINCOLN AVE	ANAHEIM	CA	ORANGE
18	09726 300 S BROOKHURST ST	ANAHEIM	CA	ORANGE
19	09727 2101 S HARBOR BLVD	ANAHEIM	CA	ORANGE
20	09728 2800 W BALI ROAD	ANAHEIM	CA	ORANGE
21	09729 11500 BEACH BLVD	STANTON	CA	ORANGE
22	09730 727 S EAST ST	ANAHEIM	CA	ORANGE
23	09731 3101 E LA PALMA	ANAHEIM	CA	ORANGE
24	09732 2493 N TUSTIN	ORANGE	CA	ORANGE
25	09733 825 W KATELLA AVE	ORANGE	CA	ORANGE
26	09734 6311 WESTMINSTER AVE	WESTMINSTER	CA	ORANGE
27	09735 13501 MAGNOLIA ST	GARDEN GROVE	CA	ORANGE
28	09736 13511 EUCLID ST	GARDEN GROVE	CA	ORANGE
29	09737 14472 BROOKHURST	GARDEN GROVE	CA	ORANGE
30	09738 2730 W MCPADDEN AVE	SANTA ANA	CA	ORANGE
31	09739 2040 N BRISTOL ST	SANTA ANA	CA	ORANGE

THRIFTY SITES LEASED BY ARCO IN ORANGE COUNTY
EXHIBIT B

NUMBER	ARCO#	ADDRESS	CITY	STATE	COUNTY
32	09740	801 N BRISTOL ST	SANTA ANA	CA	ORANGE
33	09741	324 S GRAND AVE	SANTA ANA	CA	ORANGE
34	09742	15501 EDWARDS STREET	HUNTINGTON BEACH	CA	ORANGE
35	09743	18520 BROOKHURST	FOUNTAIN VALLEY	CA	ORANGE
36	09744	18975 MAGNOLIA	FOUNTAIN VALLEY	CA	ORANGE
37	09745	19971 BEACH BLVD	HUNTINGTON BEACH	CA	ORANGE
38	09746	2021 NEWPORT BLVD	COSTA MESA	CA	ORANGE
39	09747	590 S PACIFIC COAST HWY	LAGUNA BEACH	CA	ORANGE
40	09748	500 CAMINO DE ESTRELLA	SAN CLEMENTE	CA	ORANGE



I hereby certify the foregoing instrument consisting of 3 page(s)
is a true and correct copy of the original on file in this court.

ATTEST: (DATE) JAN 08 2003
ALAN SLATER, EXECUTIVE OFFICER AND CLERK OF THE
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

BY

Derick R. Rybalid
Derick R. Rybalid

Exhibit B

1 TONY RACKAUCKAS, District Attorney
2 County of Orange, State of California
3 JAN C. STURLA, Senior Assistant District Attorney
4 ROBERT C. GANNON, JR., Assistant District Attorney
Consumer and Environmental Protection Unit
BY: MICHELLE M. LYMAN (Bar No. 121780)
Deputy District Attorney
5 401 Civic Center Drive West, 5th Floor
Santa Ana, California 92701-4575
Telephone: (714) 347-8706
Facsimile: (714) 796-0476

7 Attorneys for Plaintiff
8 THE PEOPLE OF THE STATE OF CALIFORNIA

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF ORANGE-CENTRAL JUSTICE CENTER

11 THE PEOPLE OF THE STATE OF CALIFORNIA,) CASE NO. 80-40-30
12 Plaintiff,) ASSIGNED FOR ALL PURPOSES TO:
vs.) JUDGE JOHN C. WOOLLEY
13) DEPARTMENT C6
14 ATLANTIC RICHFIELD COMPANY, a Delaware) FIRST AMENDED COMPLAINT
corporation doing business as ARCO; BP AMOCO) FOR INJUNCTION, COMPLIANCE
15 CORPORATION; ARCO CHEMICAL COMPANY; LYONDELL) ORDER, CIVIL PENALTIES
CHEMICAL COMPANY; THRIFTY OIL COMPANY; DOES 5 through 200, inclusive,) AND OTHER RELIEF
16)
17 Defendant.)

18 Plaintiff, the People of the State of California, by and through Tony Rackauckas, District
19 Attorney for the County of Orange, alleges:

20 VENUE AND JURISDICTION

21 1. Tony Rackauckas, the District Attorney of the County of Orange ("District
22 Attorney") brings this action on behalf of the People of the State of California ("the People") to:
23 (1) protect the public from health and safety hazards, (2) prevent destruction of Orange County's
24 groundwater resources and otherwise protect the environment, and (3) protect the People from
25 unfair, unlawful and fraudulent business practices.

26 2. The District Attorney brings this action pursuant to Code of Civil Procedure
27 section 731, Civil Code sections 3479 and 3480, Health and Safety Code sections 25299,
28 25299.01, 25299.37, 25299.76, 25249.5, 25249.7, 25189.2(c), Water Code sections 13285 and

FILED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

OCT 05 2000

ALAN SLATER, Clerk of the Court

BY: N. ABURTO DEPUTY

13350. Fish and Game Code sections 5650 and 5650.1, Business and Professions Code sections 17200, 17203, 17204, and 17206 and California Code of Regulations, Title 23, Division 3, Chapter 16 and other applicable laws, statutes, and regulations.

3. The District Attorney seeks to: (1) enjoin defendants from engaging in further violations of the laws and regulations alleged herein, (2) compel defendants to cleanup and abate soil and groundwater contamination caused by unauthorized releases of gasoline and Methyl Tertiary-Butyl Ether ("MTBE") which contamination constitutes a continuing nuisance, (3) recover damages from defendants where such contamination cannot be cleaned up or abated and has resulted in the creation of a permanent nuisance, (4) penalize defendants with the imposition of civil penalties for violations of the laws and regulations alleged herein, (5) disgorge the monetary profits obtained by defendants as a result of their acts in violation of the laws and regulations alleged herein, and (6) obtain such other relief as the Court deems appropriate to ensure the health and safety of the People, protect the environment and to prevent the destruction of groundwater resources by defendants.

4. Defendants, and each of them, conduct business in Orange County and elsewhere in California.

5. The violations of law alleged herein were committed in Orange County and elsewhere within the State of California.

PLAINTIFF

6. Plaintiff, the People, is the public located within the County of Orange, as represented by Tony Rackauckas, the District Attorney. Plaintiff does not include, and the District Attorney does not represent, any water district or other municipality; the Orange County Health Care Agency; the Santa Ana Regional Water Quality Control Board; the State Water Resources Control Board; any city; any public or private well owner; or any other individual, regulatory agency, corporation or other entity with an interest in or pertaining to groundwater or production wells located within the County of Orange.

11

1 DEFENDANT ATLANTIC RICHFIELD COMPANY

2 7. Defendant Atlantic Richfield Company ("ARCO") was and is a corporation
3 organized under the laws of the state of Delaware with its principal place of business in Los
4 Angeles, California.

5 8. ARCO is, and at times relevant herein was, engaged in the business of
6 exploration, development, production and refining of crude oil and the marketing and sale of
7 petroleum products, including gasoline sold as motor vehicle fuel on the West Coast of the
8 United States. In 1999, ARCO had total revenues of more than \$12 billion dollars. In the first
9 quarter of 1999, ARCO's net income was \$165 million dollars. In the first quarter of 2000,
10 ARCO's net income rose to \$617 million dollars.

11 9. ARCO markets gasoline and other refined petroleum products to both consumers
12 and retailers. Gasoline is marketed under the ARCO trademark directly to motorists at ARCO
13 branded retail outlets and through independent dealers and distributors in California and
14 elsewhere.

15 10. ARCO owns and/or operates, and at all times relevant herein has owned and/or
16 operated, numerous underground storage tank systems in Orange County which are used for the
17 storage of gasoline offered for sale by ARCO to the general public.

18 11. ARCO owns, and at times relevant herein has owned, approximately ninety (90)
19 parcels of real property ("sites") in Orange County on which underground storage tank systems
20 are located and which are used for the storage of gasoline offered for sale to the general public.
21 ARCO previously owned additional sites upon which it operated underground storage tank
22 systems at times relevant herein.

23 12. Since approximately mid-1997, ARCO has leased from defendant Thrifty Oil Co.
24 ("Thrifty") approximately forty-two (42) gas station sites on which it operates underground
25 storage tank systems used for the storage of gasoline offered for sale by ARCO to the general
26 public.

27 13. ARCO owns and operates two petroleum refineries on the West Coast. At all
28 times relevant herein, ARCO added the chemical Methyl Tertiary-Butyl Ether (MTBE) to its

gasoline at its West Coast refineries prior to sale to the general public.

14. The MTBE ARCO added to its gasoline was either manufactured by ARCO, or obtained from defendants ARCO Chemical Company ("ARCO Chemical"), Lyondell Chemical Company ("Lyondell"), or others unknown to Plaintiff.

DEFENDANT BP AMOCO CORPORATION

15. Defendant BP Amoco Corporation ("BP") is a United Kingdom corporation with its headquarters in London, England. BP is incorporated under the laws of the state of Indiana with its principal place of business located in Chicago, Illinois.

16. BP is the world's third largest oil company with worldwide revenues of more than \$91 billion dollars in 1999. BP is engaged in the exploration, development, production and refining of crude oil and the marketing of gasoline for use as motor vehicle on a worldwide basis.

17. Plaintiff is informed and believes and on that basis alleges that, on or about April 18, 2000, BP acquired all of the assets and liabilities of ARCO through a merger transaction and that ARCO is now a wholly-owned subsidiary of BP.

18. Plaintiff is informed and believes and on that basis alleges that BP acquired ARCO to, among other things, "give BP Amoco entry to the key West Coast retail markets of the US where ARCO has the leading market share in five states and owns two of the most efficient refineries in the region. With the prime refining and retail network BP Amoco already has east of the Rockies, this makes it a coast-to-coast marketer in the US." [BP Amoco April 1, 1999 Press Release entitled "BP Amoco and ARCO in \$26.8 Billion Deal Agreed by Boards of Both Companies".]

19. There exists, and since at least April 18, 2000, has existed a unity of interest and ownership between defendant BP and defendant ARCO, such that any individuality and separateness between BP and ARCO have ceased to exist, in that BP completely controls, dominates, manages and operates ARCO to suit its own convenience and for its own purposes. ARCO is a mere shell, instrumentality and conduit through which BP conducts its own petroleum related business on the West Coast with the ARCO brand name and adherence to the fiction of the separate existence of ARCO as an entity distinct from BP would permit abuse of

1 the corporate privilege.
2

3 **DEFENDANT ARCO CHEMICAL COMPANY**

4 20. Defendant ARCO Chemical is a corporation with its headquarters in Newtown
5 Square, Pennsylvania.

6 21. ARCO Chemical was a wholly-owned subsidiary of ARCO until 1987. In 1987,
7 ARCO Chemical became a public company listed on the New York Stock Exchange, when
8 ARCO sold 20% of the company to the public and retained 80% ownership of ARCO Chemical.
9 In July 1998, Lyondell acquired all of ARCO's interest in ARCO Chemical.

10 22. ARCO Chemical is, and at times relevant herein was, engaged in the business of
11 manufacturing, producing and distributing MTBE to gasoline refiners and suppliers and others,
12 including but not limited to ARCO and Thrifty.

13 **DEFENDANT LYONDELL CHEMICAL COMPANY**

14 23. Defendant Lyondell is a corporation with its headquarters in Houston, Texas.

15 24. Lyondell was formed by ARCO as a wholly-owned subsidiary in 1985 with
16 selected chemical and refining assets. In 1989, ARCO spun-off Lyondell into a public company
17 listed on the New York Stock Exchange.

18 25. In 1998, Lyondell acquired ARCO Chemical.

19 26. Lyondell is, and at all times relevant herein was, engaged in the business of
20 manufacturing, producing and distributing MTBE to gasoline refiners and suppliers and others,
21 including but not limited to ARCO, BP, and Thrifty. Lyondell owns and operates the world's
22 largest MTBE production facility at its Channelview, Texas plant.

23 **DEFENDANT THRIFTY OIL COMPANY**

24 27. Defendant Thrifty is a privately held California corporation with its headquarters
25 in Santa Fe Springs, California.

26 28. Thrifty is, and at times relevant herein was, engaged in the business of the
27 production and refining of crude oil and the marketing and sale of petroleum products, including
28 gasoline used as motor vehicle fuel on the West Coast of the United States.

29. At all times relevant herein, Thrifty added MTBE to its gasoline prior to sale to

the general public.

30. Thrifty owns, and at times relevant herein has owned, approximately forty-two (42) parcels of real property ("sites") in Orange County on which underground storage tank systems are located and which were used by Thrifty until mid-1997 for the storage of gasoline offered for sale to the general public. Thrifty owned and operated the underground storage tank systems at these 42 locations until mid-1997.

31. In mid-1997, Thrifty leased all 260 of its retail gas stations in California to ARCO, including the 42 Orange County locations. ARCO assumed operational responsibility for the underground storage tank systems located at all 42 Orange County locations, and thereafter used these systems for the storage of gasoline offered for sale to the general public. Plaintiff is informed and believes and on that basis alleges that ARCO assumed ownership of the underground storage tank systems at these 42 locations in accordance with the terms of its lease arrangement with Thrifty.

ALL DEFENDANTS

32. The names and capacities, whether individual, corporate or otherwise, of Defendants named herein as DOES 5 through 200, are unknown to plaintiff, who, therefore, sues these defendants by such fictitious names. Plaintiff will amend this complaint to show their true names and capacities if and when they have been ascertained. Plaintiff is informed and believes, and on such information and belief alleges, that each of the defendants named as a Doe is responsible in some manner for the events and occurrences about which this complaint is filed and is liable for the relief sought herein.

33. At times relevant herein, each of the defendants acted in concert with or conspired with one or more of the remaining defendants in committing the violations of law alleged herein. Each of the defendants was the agent, employee or principal of each of the remaining defendants and was acting within the course and scope of his or her agency and/or employment.

11

1 **WATERS OF THE STATE OF CALIFORNIA**
 2

3 34. All water within the State, including groundwater, is the property of the people of
 4 the State of California. *Cal. Water Code sections 102 and 104.*

5 35. As to all water, the Legislature of the State of California ("the Legislature") has
 6 determined that "**the people of the State have a primary interest in the conservation, control**
 7 **and utilization of the water resources of the state, and that the quality of all waters of the**
 8 **State shall be protected for use and enjoyment of the people of the state.**" *Cal. Water Code*
 9 *section 13000.*

10 36. The Legislature has expressly recognized the critical importance of California's
 11 groundwater given the state's reliance on it as a primary water supply: "**[T]he greater portion**
 12 **of the water used in this State is stored, regulated, distributed and furnished by its ground**
 13 **water basins, and that such basins are subject to critical conditions of . . . degraded water**
 14 **quality causing great detriment to the peace, health, safety and welfare of the people of the**
 15 **State.**" *Cal. Water Code section 12922.1.* "**[T]he people of the State have a primary interest**
 16 **in the correction and prevention of irreparable damage to, or impaired use of, the ground**
 17 **water basins of this State caused by . . . degraded water quality.**" *Cal. Water Code section*
 18 *12922.39.*

19 37. The Legislature has designated the State Water Resources Control Board ("State
 20 Board") and the Regional Water Quality Control Boards ("Regional Boards") as the principal
 21 state agencies with responsibility for the coordination and control of water quality in California.
 22 *Cal. Water Code section 13001.* The State Board adopts water quality control policies for the
 23 state and the Regional Boards implement them. In Resolution No. 68-16, the State Board
 24 established a policy that the high quality of waters in the state shall be maintained. To that end,
 25 the Regional Boards and other authorized local agencies are charged with the responsibility of
 26 overseeing the cleanup of sites in California where soil and groundwater are polluted or
 27 contaminated.

28 //

ORANGE COUNTY'S GROUNDWATER BASIN

38. The Santa Ana River Basin is a vast groundwater basin located primarily within the County of Orange. It provides approximately seventy-five (75) percent of the annual water supply for more than two million (2,000,000) people in Orange County. All water in the Santa Ana River Basin has the highest possible designated beneficial use -- municipal and domestic supply. There are thousands of active and inactive production wells located in Orange County which are used or can potentially be used to supply water to the public. Each year more production wells are installed in order to meet the increasing water supply needs of the County's growing population. Discharges of pollutants to groundwater within the Santa Ana River Basin are a threat to existing production wells and to the potential future use of the basin as a water supply.

GASOLINE AND ITS CHEMICAL CONSTITUENTS AND ADDITIVES

39. As purchased at the pump, gasoline contains a number of constituents and additives each of which separately, as well as in combination, present a significant risk to human health, safety and to the environment.

40. The gasoline marketed by ARCO, BP and Thrifty, at all times relevant herein, contains the chemicals Benzene, Toluene, Ethylbenzene and Xylene ("BTEX"), petroleum hydrocarbons and the chemical additive Methyl Tertiary-Butyl Ether ("MTBE").

41. Benzene is a clear, colorless, highly reactive flammable liquid derived from petroleum and contained in gasoline. Benzene is a chemical known by the State of California to cause cancer in humans and has been listed as such pursuant to the State's Safe Drinking Water Initiative, Health and Safety Code sections 25249.5 *et. seq.* ("Proposition 65"). Because of the adverse health effects of benzene, the California Department of Health Services has set a primary maximum contaminant level ("MCL") of benzene in drinking water of 0.001 milligrams per liter (mg/L) or 1 part per billion (ppb). State law prohibits public water suppliers from providing drinking water that exceeds primary MCLs.

42. Toluene is a colorless flammable liquid obtained from coal tar or petroleum and contained in motor vehicle fuels. Toluene is a chemical known by the State of California to cause reproductive toxicity in humans and has been listed as such pursuant to Proposition 65.

1 Toluene also adversely affects the brain. Because of the adverse health effects of toluene, the
2 California Department of Health Services has set a primary MCL for toluene of 0.15 mg/L.
3

4 43. Ethylbenzene is a colorless liquid that smells like gasoline and occurs naturally in
5 coal tar and petroleum and is contained in gasoline. Because of the adverse health effects of
6 ethylbenzene, the California Department of Health Services has set a primary MCL for
7 ethylbenzene of 0.7 mg/L.

8 44. Xylene is a colorless sweet-smelling flammable liquid that occurs naturally in coal
9 tar and petroleum and is contained in gasoline, paint, paint thinners and other products. Xylene
10 adversely affects the brain. Because of the adverse health effects of xylene, the California
11 Department of Health Services has set a primary MCL for xylene of 1.750 mg/L.

12 **The Additive Methyl Tertiary-Butyl Ether**

13 45. Methyl Tertiary-butyl Ether (MTBE) is a flammable liquid and has an unpleasant
14 odor and turpentine-like taste. MTBE is made from the blending of chemicals such as
15 isobutylene and methanol.

16 46. MTBE (unlike benzene, toluene, ethylbenzene and xylene) is not a naturally
17 occurring constituent or fraction of refined petroleum. Rather, MTBE is an oxygenate which is
18 added to gasoline as an octane enhancer to improve vehicle performance and reduce emissions.

19 47. MTBE is a known animal carcinogen. The United States Environmental
20 Protection Agency ("US EPA") classifies MTBE as a possible human carcinogen. A November
21 1998 report entitled "HEALTH & ENVIRONMENTAL ASSESSMENT OF MTBE" ("UC
22 Report") prepared by a panel of experts assembled by the University of California at Davis for
23 the Governor and Legislature of the State of California concluded, among other things, that
24 MTBE "is an animal carcinogen with the potential to cause cancer in humans."

25 48. Because of the adverse health effects of MTBE, the California Department of
26 Health Services has set a primary MCL for MTBE of 0.013 mg/L or 13 ppb. Based on the
27 adverse taste and odor of MTBE, the State has set a secondary MCL for MTBE of 0.005 mg/L, or
28 5 ppb.

29 49. MTBE poses unique risks to groundwater and especially to drinking water

1 supplies. Given the volume by weight of MTBE in gasoline (approximately 11%), MTBE
 2 contaminant plumes typically are of greater volume and concentration (mass) than the plumes of
 3 other gasoline chemicals found in retail quality gasoline. And, once released to soil and
 4 groundwater, MTBE persists in the subsurface environment and does not easily or readily
 5 biodegrade. MTBE is extremely soluble in water, moves with the flow of groundwater and
 6 spreads much more rapidly and extensively than other gasoline contaminant plumes. MTBE
 7 migrates vertically as well as horizontally with the natural flow of groundwater. The migration
 8 of MTBE may also be influenced and hastened by the pumping of nearby production wells which
 9 act to draw MTBE contamination down into deeper groundwater zones. Tertiary Butyl Alcohol
 10 ("TBA") is a bi-product of MTBE and poses similar risks to groundwater and the environment as
 11 MTBE.

12 50. MTBE renders water unfit for human consumption at extremely low
 13 concentrations (less than 10 ppb) due to its foul taste and odor. Even small spills of MTBE into
 14 groundwater may destroy the usefulness of an entire water supply or aquifer.

15 51. It is extremely difficult and extremely expensive to remove MTBE from
 16 groundwater. However, remediation of MTBE contamination from soil and groundwater located
 17 at the source of contamination (typically a leaking underground storage tank site) is far easier and
 18 less expensive than remediation of MTBE from an aquifer or contaminated production well.

19 52. The UC Report summarized the risks posed by MTBE to the water supplies and
 20 the economy of the State of California: "There are significant risks and costs associated with
 21 water contamination due to the use of MTBE. MTBE is highly soluble in water and will transfer
 22 readily to groundwater from gasoline leaking from underground storage tanks..it is clear we are
 23 placing our limited water resources at risk by using MTBE. MTBE has been detected in several
 24 water supply systems, which have shut down the contaminated sources, resorting to alternative
 25 supplies or treatment . . . If MTBE continues to be used at current levels and more sources
 26 become contaminated, the potential for regional degradation of water resources, especially
 27 groundwater basins, will increase . . . The cost of treatment of MTBE-contaminated drinking
 28 water sources in California could be enormous . . . We believe the use of either non-oxygenated

1 reformulated gasoline or ethanol as an oxygenate . . . would result in much lower risk to water
2 supplies, [and] lower water treatment costs in the event of a spill."

3 53. Based on the findings and recommendations of the UC Report , the Governor of
4 the State of California, Gray Davis, issued Executive order D-55-99 on March 25, 1999
5 declaring "on balance, there is a significant risk to the environment from using Methyl Tertiary-
6 Butyl Ether (MTBE) in gasoline in California" and calling for its removal from gasoline no later
7 than December 31, 2002.

8 THE INTRODUCTION OF MTBE INTO GASOLINE SUPPLIES

9 54. In March 1979, US EPA granted ARCO's application to use MTBE as a blending
10 component in unleaded gasoline at volumes up to seven (7) percent. ARCO sought such
11 approval because the MTBE would raise octane levels and compensate for the removal of lead
12 from gasoline. US EPA's registration of MTBE does not constitute either approval or
13 endorsement of MTBE by US EPA. It is merely a determination that MTBE in such
14 concentrations would not cause or contribute to the failure of any emission control device or
15 system. In 1988, US EPA registered MTBE at volumes up to fifteen (15) percent.

16 55. Significant production of MTBE began in April 1979. During the 1980s, MTBE
17 was added to gasoline primarily to boost octane as lead was phased out of gasoline. By 1986,
18 MTBE was one of the most prevalent chemicals in production and use in the United States
19 (primarily as a gasoline additive). ARCO, through its subsidiaries ARCO Chemical and
20 Lyondell, was a major manufacturer of MTBE during the 1980s and 1990s. ARCO Chemical and Lyondell
21 have all substantially profited from the manufacture, production, distribution and widespread use
22 of MTBE in gasoline, as have BP, Thrifty and other gasoline refiners, distributors and retail
23 businesses by the ready availability of MTBE a relatively inexpensive additive to compensate for
24 lead removal and reduce emissions.

26 //
27 //
28 //

1 DEFENDANTS LEARN OF YET DENY THE RISKS POSED BY MTBE

2 56. During the 1980s, defendants learned of the unique risks posed to groundwater
3 and drinking water supplies from releases of MTBE laden gasoline.

4 57. By 1980, defendants knew that many underground gasoline storage tank and
5 delivery systems, including many owned by defendants ARCO, BP, and Thrifty, were leaking
6 gasoline into the environment.

7 58. Shortly after MTBE was first added to gasoline supplies it was found in drinking
8 water supplies. In October 1980, it was discovered that gasoline containing MTBE released from
9 a Shell station contaminated public drinking water supplies in Rockaway, New Jersey.

10 Approximately four thousand (4,000) people there could taste MTBE or DIPE (another ether) in
11 their water supplied from a municipal well. By 1981, Shell Oil Company knew MTBE in its
12 gasoline could, and did, contaminate public drinking water supplies, rendering them unusable
13 due to foul taste and odor.

14 59. Shell shared the results of its investigation into MTBE contamination at Rockaway,
15 New Jersey, directly or indirectly with defendants and others.

16 60. In 1983, in response to a survey regarding pollution of groundwater conducted by
17 the Groundwater Technical Task Force of the American Petroleum Institute ("API"). Shell
18 stated: "In our spill situation [at Rockaway], the MTBE was detectable (by drinking) in 7 to 15
19 parts per billion so even if it were not a factor to health, it still had to be removed to below the
20 detectable amount in order to use the water."

21 61. During the 1980s, API's Groundwater Technical Task Force included
22 representatives from ARCO (and its subsidiaries ARCO Chemical and Lyondell), BP and other
23 major oil and chemical companies. API members became privy to information shared by Shell
24 and other oil companies pertaining to the discovery and investigation of MTBE releases to
25 groundwater. Since the early 1980s, API's Groundwater Technical Task Force collected data
26 pertaining to MTBE releases to groundwater from virtually every major oil company, as well as
27 technical data and the results of scientific studies conducted by the expert chemists, scientists,
28 and engineers employed by the major oil companies, including defendants. API shared the

1 information it collected with API members and non-members affiliated with the petroleum
 2 industry. Through API, Defendants were in a unique position to know of the special
 3 characteristics of MTBE and the risks it poses to groundwater including, but not limited to, its
 4 solubility, resistance to biodegradation, migration potential, low odor and taste threshold, and the
 5 difficulties associated with its removal from groundwater.

6 62. In 1986, US EPA's Interagency Testing Committee ("ITC") proposed adding
 7 MTBE to the list of regulated compounds under the federal Toxic Substances Control Act
 8 (TSCA). A listing pursuant to TSCA constitutes a recommendation to the US EPA
 9 Administrator that the listed chemical is in need of testing or study as to ecological,
 10 environmental, and/or health effects.

11 63. In July 1986, ARCO Chemical responded to US EPA's proposed TSCA listing of
 12 MTBE in a letter to the Chairman of the ITC making the following representations: "*MTBE is*
 13 *only slightly soluble in water,*" that *accidental releases of MTBE "should be regarded as a*
 14 *minimal possibility,"* and that *"MTBE losses would be extremely small"* from gasoline storage
 15 and distribution systems. These representations to US EPA were untrue and ARCO Chemical
 16 knew or should have known they were untrue at the time the representations were made given the
 17 knowledge ARCO Chemical had already gained through the manufacturing and marketing of
 18 MTBE, through ARCO, its parent corporation, a supplier and retailer of MTBE laden gasoline,
 19 and through information provided to it and ARCO through and by the API.

20 64. In November 1986, the ITC recommended MTBE for "priority consideration"
 21 under TSCA. The ITC noted that MTBE production "has increased dramatically since 1979."
 22 The ITC further stated: "Persistence in ground water following spills is unknown, but it may
 23 persist for long periods if volatilization is prevented, since MTBE is not likely to be readily
 24 biodegraded or otherwise transformed in ground water." US EPA added MTBE to the TSCA list
 25 effective December 15, 1986. US EPA did not, however, conduct studies or testing of MTBE as
 26 a result of the 1986 listing. (Such studies and testing were not conducted by US EPA until the
 27 late 1990's, only after MTBE had been extensively released to groundwater throughout the entire
 28 United States. The State of California also only began studying MTBE in the late 1990s.)

1 65. Also in November 1986, officials from the State of Maine Department of
 2 Environmental Protection presented a paper (Garrett, Moreau & Lowry, "MTBE as a Ground
 3 Water Contaminant") to a joint conference of the National Water Works Association and the
 4 American Petroleum Institute. Representatives of Defendants attended the conference and
 5 presentation. The State of Maine reported that in 1984, state officials discovered MTBE in
 6 groundwater in North Berwick, Maine. By 1986, Maine officials identified about thirty (30)
 7 additional sites with MTBE contamination. The paper concluded that MTBE "is a more soluble
 8 and more rapidly spreading ground water contaminant than other components of gasoline," and
 9 that MTBE "is more difficult to remove from contaminated water than other components of
 10 gasoline." The authors urged the oil industry to (1) abandon MTBE as an additive to gasoline
 11 stored underground, (2) store gasoline containing MTBE only in double-contained facilities or
 12 those with sensitive and effective leak detection systems, and (3) acknowledge that all
 13 underground storage must be as secure as possible because of the risks posed to groundwater by
 14 MTBE.

15 66. In December 1986, representatives of ARCO, ARCO Chemical, API, and others
 16 were present at a US EPA "public focus meeting" regarding MTBE. At the meeting, US EPA
 17 made clear its concerns about groundwater contamination with the following statement: "An
 18 additional concern brought out by [EPA] research was the contamination of ground water
 19 supplies by MTBE. There are over 700,000 underground storage tanks for petroleum products in
 20 the U.S. and about 30% of these tanks leak."

21 67. Based on information in their possession at that time, ARCO and API knew or
 22 should have known by January 28, 1987 that the conclusions in the Maine Department of
 23 Environmental Protection paper "MTBE as a Ground Water Contaminant" were true: MTBE is
 24 more soluble, rapidly spreading and difficult to remove from groundwater than the BTEX
 25 components of gasoline and additional containment measures were needed to prevent and detect
 26 leaks of MTBE from underground storage tanks.

27 68. But in January 1987, ARCO urged the API to attack the findings of the Maine
 28 Department of Environmental Protection. In a letter to the National Water Works Association

1 dated January 28, 1987, the API stated in part: "The authors' recommendations that MTBE
 2 be either banned as gasoline additives or required double-lined storage tanks is clearly a policy
 3 statement and not an objective, credible scientific conclusion. Furthermore, data presented in
 4 this paper as well as those generated by ongoing API research indicate that such a policy is
 5 reactionary, unwarranted and counterproductive."

6 69. On February 12, 1987, ARCO Chemical told US EPA: "Where gasoline
 7 containing MTBE is stored at refineries, terminals, or service stations, there is little information
 8 on MTBE in groundwater. We feel there are no unique handling problems when gasoline
 9 containing MTBE is compared to hydro-carbon only gasoline."

10 70. On February 27, 1987, the "MTBE Committee," formed by MTBE producers
 11 including ARCO, and its subsidiaries ARCO Chemical and Lyondell, and others, submitted this
 12 comment to US EPA in order to persuade US EPA not to conduct testing of MTBE: "We believe
 13 that the information provided supports the conclusion that MTBE does not represent a drinking
 14 water hazard . . . The following discussion establishes that there is no evidence that MTBE
 15 poses any significant risk of harm to health or environment, that human exposure to MTBE and
 16 release of MTBE to the environment is negligible, that sufficient data exist to reasonably
 17 determine or predict that the manufacture, processing, distribution, use and disposal of MTBE
 18 will not have an adverse effect on health or the environment, and that testing is therefore not
 19 needed to develop such data."

20 71. ARCO Chemical knew or should have known, that the representations made in
 21 the February 12, 1987 submission to the EPA were false, and ARCO, ARCO Chemical, and
 22 Lyondell knew or should have known that material portions of the February 27, 1987 statement
 23 submitted by the "MTBE Committee" were false. At the time of these statements, Defendants
 24 and other members of the petroleum industry, including API members and non-members alike,
 25 knew that drinking water supplies had been destroyed by MTBE, knew that a substantial number
 26 of underground storage tanks containing MTBE laden gasoline were leaking throughout the
 27 nation, knew that sufficient data did not exist to determine or predict that the manufacture,
 28 processing, distribution, use and disposal of MTBE would not have an adverse effect on health or

1 the environment, and knew that additional testing and study of MTBE were in fact needed.

2 72. On February 4, 1987, contrary to (1) the January 28, 1987 statement submitted by
3 API to the National Water Works Association, (2) the February 12, 1987 submission by ARCO
4 Chemical to the US EPA, and (3) the February 27, 1987 submission by the "MTBE Committee"
5 to the US EPA, ARCO Chemical admitted in a letter to another petroleum industry company,
6 Citgo, that with respect to the Maine Department of Environmental Protection paper: "*We don't*
7 *have any data to refute comments made in the paper that MTBE may spread further in a*
8 *plume or may be more difficult to remove/clean up than other gasoline constituents. We will*
9 *be working to develop data in this area, either ourselves or through industry groups such as*
10 *API.*"

11 73. Towards that end, and beginning in January 1987, the API's Groundwater
12 Technical Task Force considered a series of research proposals from its members, including one
13 submitted by ARCO, in which it admitted: "... *If the research is not conducted, there will be*
14 *few credible data to support industry's contention that such octane enhancers do not constitute a*
15 *significant new groundwater contamination threat as constituents of gasoline.*"

16 74. On February 16, 1988, Chevron, another API member, submitted a research
17 proposal to API stating the need for industry to respond to claims that MTBE warrants special
18 handling: "*At present, industry has no scientific data to refute these claims.*" The proposal
19 further stated that there is "*a downside risk that the results may show that oxygenates, to some*
20 *extent, increase groundwater contamination problems from gasoline leaks and spills.*"

21 75. Because the study and testing of MTBE by the government would invariably
22 reveal both the likelihood of MTBE releases to the environment from leaking underground
23 storage tanks and the risks posed by MTBE to groundwater and drinking water supplies,
24 Defendants ARCO, ARCO Chemical, Lyondell and the API did not want the government to test
25 or study MTBE and actively discouraged the government from doing so. Still, plaintiff is
26 informed and believes and on that basis alleges that during the 1980s and 1990s ARCO, ARCO
27 Chemical, Lyondell, BP, and other oil companies conducted internal studies and tests of MTBE
28 which revealed, among other things, that the additive is more soluble in water than the BTEX

1 components of gasoline, that it ruins the taste and odor of drinking water at very low levels, that
 2 it persists in the environment, that a significant number of MTBE releases had occurred and were
 3 occurring from underground gasoline storage tank delivery systems, and that in many instances
 4 such releases of MTBE had reached groundwater.

5 76. By 1990, ARCO knew that BP Australia was refusing to accept gasoline with
 6 MTBE due to the risks posed by it to the environment.

7 **DEFENDANTS PROMOTE MTBE DESPITE KNOWLEDGE OF ITS RISKS**

8 77. During the 1980's, defendants ARCO, BP, ARCO Chemical and Lyondell formed
 9 and operated a conspiracy which they continued to operate throughout the 1990's and presently
 10 operate. Through the conduct of their business, their relationship with one another and their joint
 11 membership in API, said defendants learned of the harmful characteristics of MTBE including
 12 the likelihood of its release from leaking underground storage tank systems and its potential to
 13 destroy drinking water supplies. Despite this knowledge, said defendants agreed to and did deny
 14 the harmful characteristics of MTBE and the likelihood of its release to water supplies while at
 15 the same time encouraging and promoting the approval and use of MTBE as a fuel additive
 16 beneficial to the environment. Said defendants individually and through API lied to Congress,
 17 US EPA, regulators and the general public about MTBE. Said defendants then proceeded to
 18 manufacture MTBE and distribute it in gasoline supplies without giving any special handling or
 19 containment instructions to gasoline retailers and without taking any additional measures to
 20 prevent underground storage tank systems from leaking MTBE into groundwater supplies. Said
 21 defendants also did not timely or adequately identify and cleanup MTBE releases caused by
 22 them. Said defendants individually and through the Oxygenated Fuels Association continue to
 23 promote the use of MTBE while denying its harmful characteristics and to manufacture and
 24 distribute MTBE in gasoline supplies without giving adequate handling and storage instructions
 25 to prevent its release to the environment.

26 78. The 1990 Clean Air Act Amendments as originally drafted and considered by
 27 Congress included a number of provisions that would have led to the introduction of alternative
 28 (non-petroleum) fuels for automobiles in order to reduce air pollution.

1 79. ARCO and ARCO Chemical, and others in the petroleum refining and oxygenate
2 industry, opposed the alternative fuel provisions and instead proposed the Reformulated Gasoline
3 Program ("RFG Program") which would rely instead on the use of oxygenated gasoline to reduce
4 air pollution.

5 80. In their attempt to obtain approval of the RFG Program, ARCO and ARCO
6 Chemical began an extensive national campaign promoting MTBE as the key ingredient for
7 making low emission gasoline and extolling the purported environmental benefits of MTBE
8 based reformulated gasoline. ARCO and ARCO Chemical failed to advise the public, Congress
9 or regulators of the risks to groundwater created by the below ground storage of MTBE laden
10 gasoline, despite their knowledge of existing MTBE groundwater contamination and the
11 widespread leakage from underground storage tank systems.

12 81. Congress amended the Clean Air Act in 1990 by adopting the RFG Program
13 proposed by ARCO and ARCO Chemical, with no provision for the introduction of alternative
14 fuels. The amendments required that gasoline meet certain minimum and maximum oxygen
15 requirements during winter months beginning in 1992 to control carbon monoxide pollution and
16 to meet such requirements all year round beginning in 1995 in certain areas to control ozone
17 pollution. The oxygen requirements of the 1990 Clean Air Act Amendments may be achieved
18 through the addition of chemicals such as MTBE, ethanol, or other oxygenates.

19 82. Neither the federal Clean Air Act, nor US EPA's implementing regulations, nor
20 any state law or regulation requires the use of MTBE to fulfill gasoline oxygenate requirements.
21 Congress specifically declined to mandate one oxygenated fuel additive over another, allowing
22 the use of any oxygenate to satisfy the oxygen requirement.

23 83. At times relevant herein, ARCO, BP and Thrifty chose to add the oxygenate
24 MTBE to their gasoline both before and after passage of the Clean Air Act amendments of 1990,
25 despite knowing of the risks posed by MTBE to groundwater. Since approximately 1992, MTBE
26 has constituted approximately eleven (11) percent by weight of the total volume of gasoline sold
27 by ARCO and Thrifty in California. MTBE is and has been the most widely used oxygenate in
28 gasoline sold in California.

1 84. During the 1990s Defendants ARCO, ARCO Chemical, Lyondell, BP, and Thrifty
2 continued to receive information and data generated both internally and received from other
3 sources, including other major oil companies and the API, that widespread releases of MTBE to
4 the environment had occurred from leaking underground storage tank systems and that these
5 releases threatened groundwater. By early 1995, ARCO, ARCO Chemical, API, and other oil
6 companies knew and acknowledged amongst themselves that MTBE posed a serious future
7 remediation concern.

THE LAWRENCE LIVERMORE REPORT

9 85. In 1995, the Lawrence Livermore National Laboratory ("Lawrence Livermore")
10 conducted a study on behalf of the State Board concerning the cleanup of BTEX chemicals from
11 soil and groundwater. The study concluded that certain "low risk" sites contaminated with
12 BTEX chemicals could be closed without requiring active cleanup by the responsible party,
13 instead relying upon natural attenuation of BTEX contamination at such sites. Natural
14 attenuation is a remedial option which relies upon biodegradation and dilution of contaminants in
15 lieu of active cleanup measures. The Lawrence Livermore report did not consider or address
16 MTBE contamination or whether natural attenuation is an appropriate remedial option to cleanup
17 MTBE contamination. It merely addressed the remediation of BTEX constituents of gasoline
18 which it concluded do not persist in the environment and are amenable to biodegradation. In
19 reliance on the Lawrence Livermore report, the State Board and Regional Boards closed
20 hundreds of gasoline contaminated sites throughout California without requiring cleanup and
21 without testing for the presence of MTBE. The closure of these sites (entombing MTBE and
22 other contaminants therein) has only served to aggravate the scope and extent of damage wrought
23 by MTBE to the waters of the State of California.

24 86. Since 1995, ARCO has repeatedly argued to regulatory agencies in California that
25 many of its sites are "low risk" and that ARCO should not be required to actively cleanup these
26 sites, but instead should be allowed to leave contamination in place and rely upon natural
27 attenuation to dissipate contamination, in accordance with the conclusions of the Lawrence
28 Livermore report. Many of the sites where ARCO cited the Lawrence Livermore Report and

1 argued in favor of natural attenuation and against active cleanup did not meet the "low risk"
 2 criteria identified by Lawrence Livermore necessary to justify natural attenuation. ARCO argued
 3 in favor of natural attenuation at many gasoline release sites knowing that MTBE was necessarily
 4 present (given the composition of ARCO gasoline) and that, unlike the BTEX components of
 5 gasoline, MTBE persists in the environment and is extremely resistant to biodegradation. ARCO
 6 has intentionally misused the Lawrence Livermore report in order to avoid the cleanup, and
 7 expense associated therewith, of gasoline release sites which were not "low risk" and which were
 8 contaminated with MTBE. By this conduct, ARCO avoided substantial expenses associated with
 9 the cleanup of MTBE and BTEX contamination caused by ARCO's intentional promotion and
 10 use of MTBE in gasoline and the failure of ARCO to properly contain its gasoline within
 11 underground storage tanks and to otherwise meet structural and operational requirements for the
 12 ownership and operation of its underground storage tanks.

13 **MTBE DESTROYS STATE WATER SUPPLIES**

14 87. In August 1995, the City of Santa Monica, California, discovered MTBE in
 15 drinking water supply wells located at its Charnock Wellfield. The Charnock Wellfield had five
 16 operating municipal supply wells within the Charnock Sub-Basin which provided approximately
 17 forty-five (45) percent of the drinking water for the city's 87,000 residents and approximately
 18 200,000 daytime users. In 1996, levels of MTBE at the city's Charnock Wellfield rose to more
 19 than 600 ppb, and by June 13, 1996, all of the supply wells in the Charnock Wellfield were shut
 20 down due to persistent and increasing levels of MTBE contamination. In October 1996, the
 21 Southern California Water Company ("SCWC"), another water purveyor utilizing the Charnock
 22 Sub-Basin, shut down its wellfield in order to avoid drawing in the MTBE contamination. Prior
 23 to this shut down, the SCWC had operated two municipal supply groundwater wells that
 24 provided a portion of the drinking water for approximately 10,000 residences in Culver City,
 25 California. Replacement water has been and continues to be purchased by the City of Santa
 26 Monica and the SCWC from the Metropolitan Water District of Southern California (Colorado
 27 River and northern California supply) at a cost approximately three times greater than that of the
 28 groundwater being replaced.

1 88. An investigation ensued into the source(s) of MTBE contamination at the
2 Charnock Wellfield. By April 1997, US EPA and the Los Angeles Regional Water Quality
3 Control Board identified thirty (30) potential source facilities within an approximate one and
4 one-quarter mile radius of the Charnock Wellfield. Two of the potential sources were gasoline
5 product pipelines. The remaining twenty-eight (28) potential sources were underground storage
6 tank systems where gasoline had been or was being stored for retail distribution.

7 89. In September 1997, MTBE contamination of the public drinking water supply at
8 South Lake Tahoe, California, was discovered. Since then, the South Lake Tahoe Public
9 Utilities Department was forced to shut down many of its drinking water supply wells due to
10 MTBE contamination or the threat of such contamination. Leaking underground storage tanks
11 located at gas stations in the South Lake Tahoe area were identified as the source of MTBE
12 groundwater contamination. As in the City of Santa Monica, the drinking water supply in
13 South Lake Tahoe, and the wells from which the supply is tapped, remain unusable because of
14 MTBE contamination.

15 90. In April 2000, the City of Cambria, California was forced to shut down its
16 drinking water supply wells due to the migration of a large MTBE contaminant plume in close
17 proximity to the wells. Even when its groundwater supply system is operational, Cambria suffers
18 acute drinking water supply shortages. The MTBE plume in Cambria was caused by the
19 unauthorized release of gasoline from underground storage tanks located at a Chevron service
20 station.

21 91. Several other private and public water supplies in California have been damaged
22 and lost due to MTBE contamination and many others are threatened by such contamination.

CALIFORNIA IMPLEMENTS TESTING REQUIREMENTS FOR MTBE

23 92. In 1996, in direct response to information obtained regarding the discovery and
24 investigation of MTBE contamination at the Charnock Wellfield, the State Board, Regional
25 Boards and other local agencies in California responsible for the oversight and direction of the
26 cleanup of gasoline releases began to require those responsible for gasoline releases to test soil
27 and groundwater for MTBE on a statewide basis. Defendants ARCO, BP and Thrifty only began
28

to systematically test their gasoline contaminated sites for the presence of MTBE after being required to do so by the relevant regulatory agencies.

93. Once the results of required soil and groundwater testing for MTBE were submitted to regulators, the extent of damage was revealed. MTBE releases from underground storage tanks have contaminated shallow groundwater throughout California and these releases have migrated to and destroyed a number of public drinking water supplies and threaten numerous others.

94. The extent of MTBE groundwater contamination in California was and is the foreseeable and inevitable consequence of industry's denial of the risks posed to groundwater by MTBE stored in underground tanks and the affirmative promotion, encouragement and widespread distribution of MTBE in gasoline supplies.

95. In 1996, BP found that eighty-four (84) percent of its gas station sites with known gasoline releases had MTBE contamination.

96. In 1997, ARCO found that eighty-five (85) percent of its gas station sites in California with known gasoline releases had MTBE contamination.

GROUNDWATER CONTAMINATION IN ORANGE COUNTY

97. Groundwater in the Santa Ana River Basin has been extensively damaged, degraded, impaired and is currently threatened by underground storage tank systems located at gas stations and other facilities which have leaked gasoline and MTBE into the subsurface environment. In most areas of the Santa Ana River Basin, the uppermost portions of the aquifers are in hydrologic contact with deeper portions used to supply drinking water. For this reason, discharges of pollutants (including gasoline and MTBE) to shallow groundwater are a threat to deeper water supplies. The Santa Ana Regional Water Quality Control Board ("Santa Ana Regional Board") generally requires the cleanup of contaminated groundwater to drinking water standards. This means that all contaminants which exceed primary MCLs must be removed from groundwater before it is deemed "clean".

98. Leaking underground storage tanks and product pipelines and other spills and releases associated with the day to day operation of gas stations are the primary source of

1 gasoline and MTBE found in groundwater. There are approximately seven hundred and fifty
 2 (750) sites in Orange County where an unauthorized release or releases of gasoline have caused
 3 groundwater contamination subject to cleanup oversight by the Santa Ana Regional Board or the
 4 Orange County Health Care Agency ("OCHCA"). There are approximately seven hundred and
 5 fifty (750) additional sites which have only soil contamination. Some of these "soil only" sites
 6 may in fact have groundwater contamination which has not been identified or groundwater may
 7 become contaminated at these sites as contaminants migrate from soil into groundwater.

8 99. In 1995, the SCWC discovered MTBE in water sampled from two inactive
 9 production wells, "Concerto #1" and "Ballad" wells, located in the City of Anaheim, Orange
 10 County, California. The SCWC ceased pumping at the Ballad and Concerto #1 wells in 1988
 11 and 1995, respectively, when perchlorethylene (a chemical used in the process of dry cleaning)
 12 was discovered in test samples obtained from the wells. Although the Ballad and Concerto #1
 13 wells have remained inactive as production wells, the SCWC periodically resumes pumping
 14 activities at the wells for the purpose of obtaining and testing samples. A water sample taken
 15 from the Concerto #1 well in 1995 was found to contain 48 ppb MTBE, more than three and
 16 one half times the state's primary MCL for MTBE in drinking water. The Ballad well
 17 contained 34 ppb MTBE in July, 1999. Test samples taken from Concerto #1 since 1995 have
 18 all contained MTBE, and the majority of those samples had concentrations above primary
 19 drinking water standards. The highest MTBE concentration found at Concerto #1 was 51 ppb,
 20 which came from a sample taken in 1999. Concerto #1, formerly an active large system
 21 production well used to supply the City of Yorba Linda and other areas of Orange County,
 22 may no longer be used solely because of the presence of MTBE regardless of the presence or
 23 absence of other contaminants.

24 100. The SCWC also discovered MTBE in samples obtained from Concerto #2 an
 25 active large system production well located near Concerto #1. Concerto #2 pumps water from
 26 a much greater depth than Concerto #1 and currently provides drinking water to the City of
 27 Yorba Linda and other portions of unincorporated Orange County. MTBE was first discovered
 28 in a sample procured from Concerto #2 on November 15, 1995, at a concentration of 1.6 ppb.

1 Sampling and testing for MTBE at Concerto #2 has been conducted regularly since the initial
2 discovery of MTBE. The highest concentration of MTBE found at Concerto #2 was 3.7 ppb
3 on December 3, 1998. The most recent sampling of Concerto #2 was conducted on May 15,
4 2000 and revealed an MTBE concentration of 2 ppb.

5 101. The Orange County Water District ("OCWD"), among other things, conducts
6 sampling and testing of groundwater in the Santa Ana River Basin by obtaining samples from
7 groundwater monitoring wells. Groundwater monitoring wells are used for the purpose of
8 monitoring groundwater quality and not for the purpose of pumping or providing a water
9 supply. AM 1, AM 2 and AM 3 are groundwater monitoring wells located near Concerto #1
10 and Concerto #2. The OCWD periodically samples water from AM 2 and AM 3. A sample
11 taken from AM2 on April 1, 2000 had a concentration of 4.5 ppb MTBE. A sample taken
12 from AM3 on October 21, 1999 had a concentration of 4.4 ppb MTBE.

13 102. The sampling and testing of Concerto #1, Concerto #2, AM 2, and AM 3
14 establish that MTBE has migrated, and is migrating, from the sources of release --
15 underground storage tank systems and pipelines containing gasoline -- into deeper drinking
16 water supplies in Orange County. Plaintiff is unaware of the identity of the responsible party
17 or parties who caused the MTBE contamination described in paragraphs 99 through 101, but
18 merely seeks to establish that drinking water supplies in Orange County have been damaged
19 and are currently threatened by releases of MTBE to soil and groundwater.

20 **ARCO'S AND THRIFTY'S ORANGE COUNTY OPERATIONS**

21 **CAUSE GROUNDWATER CONTAMINATION**

22 103. ARCO currently owns approximately ninety (90) or more parcels of real
23 property in Orange County on which a gas station is located, including but not limited to the
24 locations specified in Exhibit "A" attached hereto and incorporated by reference as though set
25 forth fully and at length herein. Also included in Exhibit "A" are several sites previously
26 owned by ARCO. Approximately *seventy-four (74) of the ninety (90) or more ARCO owned*
27 *and previously owned sites in Orange County have soil and/or groundwater contamination*
28 *caused by the unauthorized release or releases of gasoline to the environment from and*

surrounding underground storage tank systems owned and/or operated by ARCO. Additional ARCO owned sites in Orange County may also be contaminated with gasoline and MTBE from undetected and/or undisclosed leaks and releases.

104. Of the ninety (90) or more ARCO owned and previously owned sites in Orange County, approximately sixty (60) have groundwater contamination including, but not limited to, MTBE and/or BTEX contamination, caused by the prior or continuing unauthorized release, or releases, of gasoline to the environment from and surrounding underground storage tank systems that are owned and/or operated by ARCO. The exact nature, extent and duration of the groundwater contamination varies at each of the sixty (60) sites.

105. Of the sixty (60) ARCO owned sites in Orange County with groundwater contamination, approximately twenty-six (26) have had MTBE concentrations in groundwater above 10,000 ppb, including nine (9) sites which have had MTBE concentrations above 100,000 ppb. At one site, ARCO Station #1905, located at 10825 Magnolia Street in Fountain Valley, California, a groundwater sample taken on July 20, 1998 had 3,400,000 ppb MTBE.

106. Approximately fourteen (14) of the ninety (90) or more ARCO owned and previously owned sites in Orange County have confirmed soil contamination, but not groundwater contamination. Some of the fourteen (14) "soil only" sites may eventually disclose groundwater contamination through the conduct of further site assessment or through the migration of contaminants from soil to groundwater.

107. In mid-1997, ARCO leased approximately forty-two (42) gas station sites in Orange County from Thrifty, including but not limited to the locations specified in Exhibit "B" attached hereto and incorporated by reference as though set forth fully and at length herein. Of these forty-two (42) sites, all of them have groundwater contamination including, but not limited to, MTBE and BTEX contamination caused by the unauthorized release, or releases, of gasoline to the environment from and surrounding underground storage tank systems. Many of the gasoline releases at the forty-two (42) sites occurred during Thrifty's ownership and operation of the underground storage tank systems located on those sites. Subsequent gasoline releases have also occurred at some of the forty-two (42) sites during ARCO's ownership and

1 operation of the underground storage tank systems located thereon. The exact nature, extent
 2 and duration of groundwater contamination at the forty-two (42) ARCO leased and Thrifty
 3 owned sites varies on a site by site basis. ARCO exercises control over the forty-two sites it
 4 leases from Thrifty and therefore, by law, is a responsible party along with Thrifty for the
 5 cleanup of these sites.

6 108. Records of the Regional Board and the OCHCA reveal numerous instances of
 7 ARCO and Thrifty, at times relevant herein, resisting, delaying and/or failing to follow agency
 8 directives calling for corrective action, including but not limited to investigation and cleanup,
 9 at gasoline and MTBE release sites. ARCO and Thrifty, at times relevant herein, have
 10 otherwise failed to investigate, cleanup or take corrective action in response to gasoline and
 11 MTBE releases with or without agency direction in violation of the law. As a result, the 102
 12 release sites described herein where groundwater contamination has been confirmed (60 owned
 13 by ARCO and 42 owned by Thrifty and leased by ARCO) have not yet been cleaned up despite
 14 the existence of such groundwater contamination, and knowledge by ARCO and Thrifty of the
 15 existence of such contamination, for many years. ARCO and Thrifty have known about
 16 groundwater contamination at several of the release sites in excess of ten (10) years and still
 17 have not achieved cleanup.

18 109. ARCO and Thrifty should have taken aggressive measures to investigate,
 19 contain and cleanup unauthorized releases of gasoline and MTBE, especially at those sites in
 20 Orange County situated above or in close proximity to drinking water supplies and production
 21 wells, as recommended in the UC Report: "*Where contamination of groundwater is known or
 22 suspected, evaluation of plume extent and potential threats to drinking water supply wells should
 23 be carried out immediately. Plume containment, remediation and other corrective actions
 24 should proceed as soon as possible to reduce risk and cost.*" Instead, ARCO and Thrifty
 25 allowed MTBE laden gasoline to remain in the ground for lengthy periods of time without taking
 26 appropriate investigative, remedial or other corrective action measures.

27 110. The dilatory and ineffective response of ARCO and Thrifty in addressing MTBE
 28 contaminant plumes has resulted in the spread and migration of MTBE contamination away from

1 the original source zone (underneath and around underground storage tank systems) into deeper
2 soil and groundwater, decreasing the feasibility and increasing the cost of cleanup and placing
3 drinking water supplies at risk. ARCO and Thrifty responsiveness to agency directives
4 requiring site assessment and cleanup of their MTBE and gasoline contaminated sites began to
5 improve *only after* the District Attorney demanded their compliance with such directives and
6 notified them of the District Attorney's intention to seek the imposition of civil penalties for
7 their failure to do so.

8 111. Records of the OCHCA and other local agencies responsible for the permitting
9 and inspection of gas station facilities and underground storage tank systems in Orange County
10 also reveal numerous instances where ARCO and/or Thrifty violated the laws and regulations
11 pertaining to the ownership and operation of underground storage tank systems. These
12 violations include, but are not limited to, failing to obtain appropriate permits; failing to meet
13 structural requirements for underground storage tanks, including structural "upgrades"
14 required to be completed by December 22, 1998; failing to conduct leak detection monitoring;
15 tampering with leak detection monitoring equipment; failing to conduct tank integrity tests or
16 failing to submit the results of tank integrity tests to the local regulatory agency; failing to
17 properly close underground storage tanks no longer in use; and failing to operate underground
18 storage tank systems in a manner preventing unauthorized releases.

19 112. The failure of ARCO and Thrifty to meet minimum state and federal
20 requirements pertaining to the ownership and operation of underground storage tanks increased
21 the likelihood that gasoline releases would occur and/or go undetected, and such releases did in
22 fact occur.

23 113. Current and former state and federal requirements pertaining to construction,
24 maintenance, testing, leak detection monitoring and other operational requirements for
25 underground storage tank systems are inadequate and have not been reliable in preventing,
26 minimizing or detecting leaks from such systems. Defendants at all times relevant herein
27 were in possession of information regarding extensive and widespread releases of gasoline to
28 the environment from underground storage tank systems on a nationwide basis even when such

systems were in apparent compliance with minimum structural and operational requirements. ARCO, ARCO Chemical, Lyondell, BP and Thrifty knew or should have known that compliance with minimum state and federal requirements pertaining to the construction and operation of underground storage tank systems could not be relied upon to prevent, minimize or detect widespread leaks from underground storage tank systems.

114. Not only should ARCO and Thrifty have complied with minimum state and federal requirements pertaining to the ownership and operation of underground storage tanks in Orange County (which in numerous instances they did not do), they should have taken additional leak prevention and detection measures given the apparent unreliability of underground storage tank systems that actually are in compliance with minimum requirements in preventing and detecting leaks and given the risks posed by MTBE once released to groundwater. ARCO and Thrifty knew or should have known that many of the underground storage tank systems they owned and/or operated in Orange County were (and are) located directly above one of the largest below ground drinking water sources in California which should have prompted them to take additional containment, leak detection and cleanup measures.

115. ARCO Chemical and Lyondell prior to the sale and distribution of MTBE should have recommended additional containment and leak detection measures be taken by gasoline suppliers and retailers given their knowledge of the widespread occurrence of gasoline releases to the environment from leaking underground storage tank systems and the risks posed by MTBE once released to groundwater.

FIRST CAUSE OF ACTION

VIOLATION OF CIVIL CODE SECTIONS 3479 AND 3480

Public Nuisance Against All Defendants

116. The People reallege and incorporate by reference paragraphs 1 through 115, inclusive, as though set forth fully and at length herein.

117. The unauthorized release of gasoline and/or MTBE to groundwater, and to soil where such releases are likely to reach groundwater, constitutes a nuisance. Each such gasoline

1 and/or MTBE release is a continuing nuisance unless and until the gasoline and/or MTBE has
 2 been removed from groundwater and soil. Gasoline and MTBE contamination may be abated at
 3 the source of release ("source zone"). Groundwater contaminated with gasoline and MTBE
 4 surrounding the source zone may also be captured ("capture zone") and treated at the release site
 5 (typically a gas station). As MTBE contamination migrates away from the source and capture
 6 zones into deeper aquifers, it becomes far more difficult if not impossible to abate, thereby
 7 changing the nuisance from continuing to permanent. Once MTBE contamination reaches a
 8 production well or the aquifer from which such wells draw, the damage to water is complete.
 9 Abatement measures at this stage are extremely difficult, costly and time consuming. As in
 10 Santa Monica, a treatment system may be utilized at the well head in an attempt to clean MTBE
 11 contaminated water, but replacement water must be obtained to make up for the lost water supply
 12 at a far greater expense (approximately three and one half times the cost).

13 118. At times relevant herein, ARCO, BP and Thrifty created and/or maintained a
 14 public nuisance at numerous gasoline release sites in Orange County where Benzene, Toluene,
 15 Ethylbenzene and Xylene and/or MTBE have contaminated, continue to contaminate and
 16 threaten to contaminate groundwater and soil in close proximity to groundwater in violation of
 17 Civil Code sections 3479 and 3480. There are approximately sixty (74) of these release sites
 18 owned and previously owned by ARCO and controlled by BP, and approximately forty-two (42)
 19 more owned by Thrifty which are leased to ARCO and controlled by BP.

20 119. At times relevant herein ARCO Chemical and Lyondell aided, abetted, assisted
 21 and acted in concert with ARCO, BP, and Thrifty in the creation and maintenance of the
 22 nuisances as described in paragraphs 117 and 118 herein .

23 120. Each site where MTBE and/or gasoline (including its constituents Benzene,
 24 Toluene, Ethylbenzene and Xylene) contaminates, or threatens to contaminate, groundwater or
 25 drinking water supplies constitutes a separate and continuing nuisance subject to abatement.

26 121. Any site where MTBE and/or gasoline (including its constituents Benzene,
 27 Toluene, Ethylbenzene and Xylene) contamination has migrated offsite to a location or locations
 28 where such contamination is not subject to abatement constitutes a permanent nuisance justifying

1 an award of damages.

2 122. In addition to the MTBE and gasoline contaminant plumes in groundwater
3 constituting a public nuisance, underground storage tank systems owned and/or operated by
4 defendants ARCO, BP and Thrifty which are not properly designed, constructed, installed,
5 maintained or operated so as to adequately prevent the release of gasoline and MTBE to the
6 environment constitute a continuing public nuisance.

7 **SECOND CAUSE OF ACTION**

8 **VIOLATION OF HEALTH AND SAFETY CODE SECTION 25249.5**

9 **Proposition 65: Unlawful Discharge to Drinking Water Against ARCO, BP and Thrifty**

10 123. The People reallege and incorporate by reference paragraphs 1 through 122,
11 inclusive, as though set forth fully and at length herein.

12 124. At times relevant herein, ARCO, BP and Thrifty in the course of doing business
13 knowingly discharged or released Benzene, a chemical known by the state to cause cancer, and
14 Toluene, a chemical known by the state to cause reproductive toxicity, into water or onto land
15 where such chemicals have passed or probably will pass into a source of drinking water at
16 numerous gasoline release sites in Orange County. There are approximately sixty (74) of these
17 discharge sites owned by ARCO and controlled by BP and forty-two (42) more of these
18 discharge sites owned by Thrifty which are leased to ARCO and controlled by BP. However,
19 Plaintiff excludes from its SECOND CAUSE OF ACTION the ARCO owned sites identified in
20 Exhibit "C" and the Thrifty owned and ARCO operated sites identified in Exhibit "D" which
21 exhibits are attached hereto and incorporated by reference as though set forth fully and at length
22 herein.

23 125. ARCO, BP and Thrifty knew that a substantial number of their underground
24 storage tank systems had leaked, were leaking and would continue to leak gasoline, including
25 benzene and toluene, into the groundwater of Orange County. ARCO, BP and Thrifty failed to
26 take appropriate action to prevent the initial releases of benzene and toluene from underground
27 storage tank systems owned and/or operated by them, or to subsequently cleanup such releases.
28 The failure of ARCO, BP and Thrifty to timely cleanup known releases of benzene and toluene

1 resulted in the migration of these chemicals to deeper groundwater supplies. ARCO, BP and
2 Thrifty knowingly discharged benzene and toluene into water where such chemicals would
3 probably pass into a source of drinking water not only by allowing the initial discharge of
4 chemicals from their leaking underground storage tanks but also by failing to timely cleanup and
5 allowing the migration and further discharge of these chemicals into sources of drinking water.

6 **THIRD CAUSE OF ACTION**

7 **VIOLATION OF FISH AND GAME CODE SECTION 5650**

8 **Deposit of Petroleum and Other Substances Deleterious to Fish, Plant or Bird Life
9 into Waters of the State Against All Defendants**

10 126. The People reallege and incorporate by reference paragraphs 1 through 122,
11 inclusive, as though set forth fully and at length herein.

12 127. ARCO, BP and Thrifty at times relevant herein deposited in, and permitted to pass
13 into, or placed where it can pass into the waters of this state petroleum and/or residuary products
14 of petroleum, including gasoline and its constituents Benzene, Toluene, Ethylbenzene and
15 Xylene, in violation of Fish and Game Code Section 5650(a)(1).

16 128. Each of the defendants at times relevant herein deposited in, and permitted to pass
17 into, or placed where it can pass into the waters of this state MTBE, a substance deleterious to
18 fish, plant life, or bird life in violation of Fish and Game Code Section 5650(a)(6).

19 129. ARCO, BP and Thrifty at times relevant herein deposited in, and permitted to pass
20 into, or placed where it can pass into the waters of this state gasoline, including its constituents
21 Benzene, Toluene, Ethylbenzene and Xylene, which are substances deleterious to fish, plant life,
22 or bird life in violation of Fish and Game Code section 5650(a)(6).

23 **FOURTH CAUSE OF ACTION**

24 **VIOLATION OF HEALTH AND SAFETY CODE SECTION 25189.2(c)**

25 **Unlawful Disposal of Hazardous Waste Against All Defendants**

26 130. The People reallege and incorporate by reference paragraphs 1 through 122,
27 inclusive, as though set forth fully and at length herein.

28 131. ARCO, BP and Thrifty at times relevant herein violated section 25189.2(c) of the

1 Health and Safety Code by disposing of, or causing the disposal of, the following hazardous
2 wastes at a point not authorized by Chapter 6.5 of Division 20 of the Health and Safety Code:
3 Benzene; Toluene; Ethylbenzene; Xylene; and gasoline. Each of these wastes is hazardous
4 within the meaning of Health and Safety Code section 25117, whether disposed of alone or in
5 combination with one or more of the others.

6 132. Defendants, and each of them, at times relevant herein violated section 25189.2(c)
7 of the Health and Safety Code by disposing of, or causing the disposal of, a hazardous waste,
8 Methyl Tertiary-Butyl Ether (MTBE), at a point not authorized by Chapter 6.5 of Division 20 of
9 the Health and Safety Code. MTBE waste is hazardous within the meaning of Health and Safety
10 Code section 25117.

11 **FIFTH CAUSE OF ACTION**

12 **VIOLATION OF HEALTH AND SAFETY CODE SECTION 25299.37**

13 **AND REGULATIONS ENACTED PURSUANT TO HEALTH AND SAFETY**
14 **CODE SECTION 25299.7**

15 **Failure to Take Corrective Action or Appropriate Corrective Action in Response to**
16 **Unauthorized Releases Against Defendants ARCO, BP and Thrifty**

17 133. The People reallege and incorporate by reference paragraphs 1 through 122,
18 inclusive, as though set forth fully and at length herein.

19 134. ARCO, BP and Thrifty at times relevant herein violated Health and Safety Code
20 section 25299.37(a) by failing to take corrective action in response to unauthorized releases of
21 motor vehicle fuel from underground storage tank systems owned, operated or leased by them as
22 required by Article 4 of Chapter 6.75 of Division 20 of the Health and Safety Code and the
23 corrective action regulations adopted pursuant to Health and Safety Code section 25299.77

24 135. ARCO, BP and Thrifty at times relevant herein violated Health and Safety Code
25 section 25299.37(b) by conducting corrective action which did not ensure protection of human
26 health, safety, and the environment or which was not consistent with applicable waste discharge
27 requirements, state policies for water quality control or water quality control plans.

28 136. ARCO, BP and Thrifty at times relevant herein violated Health and Safety Code

1 section 25299.37(c)(1) by failing, upon oral or written order, direction, notification or approval
2 of the local agency or regional board, to prepare corrective action work plans that detail the
3 actions they will take at various sites to comply with Health and Safety Code sections
4 25299.37(a) and 25299.37(b) and the corrective action regulations adopted pursuant to Health
5 and Safety Code section 25299.77.

6 137. ARCO, BP and Thrifty at times relevant herein violated Health and Safety Code
7 section 25299.37(c)(2) by preparing work plans not in accordance with the corrective action
8 regulations adopted pursuant to section 25299.77 or which did not include a schedule and
9 timeline for corrective action.

10 138. ARCO, BP and Thrifty at times relevant herein violated Health and Safety Code
11 Section 25299.37(c)(5) by failing to conduct corrective action at various sites in accordance with
12 work plans approved by the local agency or regional board pursuant to Health and Safety Code
13 Section 25299.37(c).

14 139. ARCO, BP and Thrifty at times relevant herein violated numerous sections of Title
15 23 of the California Code of Regulations, Division 3, Chapter 16, Articles 5 and 11, of the
16 California Underground Storage Tank Regulations related to the assessment, mitigation and
17 cleanup of leaking underground storage tank sites by responsible parties. All further references
18 to these regulations shall be by title and section number only.

19 140. ARCO, BP and Thrifty at times relevant herein violated Title 23, section 2721(b)
20 by failing to take corrective action in compliance with the requirements of Chapter 6.7 of
21 Division 20 of the Health and Safety Code and the regulations promulgated thereto.

22 141. ARCO, BP and Thrifty at times relevant herein violated Title 23, section 2722(b)
23 by failing to take interim remedial action to abate or correct the actual or potential effects of
24 unauthorized releases of motor vehicle fuel from underground storage tank systems owned
25 and/or operated by them or onto land owned, leased, or controlled by them.

26 142. ARCO, BP and Thrifty at times relevant herein violated Title 23, section 2722C
27 by failing to submit to the relevant regulatory agencies work plans for proposed preliminary site
28 assessment activities or as directed by such regulatory agencies.

1 143. ARCO, BP and Thrifty at times relevant herein violated Title 23, section 2722(d)
2 by failing to submit work plans that include proposed corrective action or a proposed schedule
3 for corrective action, or by failing to modify work plans for corrective action as directed by the
4 relevant regulatory agencies.

5 144. ARCO, BP and Thrifty at times relevant herein violated Title 23, section 2723(a)
6 by failing in to conduct initial site investigation, initial abatement actions or initial site
7 characterization in accordance with Title 23, sections 2652, 2653 and 2654, or interim remedial
8 action in accordance with Title 23, section 2722(b).

9 145. ARCO, BP and Thrifty at times relevant herein violated Title 23, section 2724 by
10 failing to conduct investigations of the unauthorized releases, the release sites or the surrounding
11 areas possibly affected by unauthorized releases of motor vehicle fuel as required by Title 23,
12 section 2724.

13 146. ARCO, BP and Thrifty at times relevant herein violated Title 23, section 2725(a)
14 by failing to collect and analyze data necessary to assess the nature and vertical and lateral
15 extent of unauthorized releases of motor vehicle fuel from underground storage tank systems
16 owned and/or operated by them or onto land owned, leased, or controlled by them or to
17 determine a cost effective method of cleanup for such unauthorized releases.

18 147. ARCO, BP and Thrifty at times relevant herein violated Title 23, section 2725(b)
19 by failing to propose corrective action plans using information obtained during the Soil and
20 Water Investigation Phase.

21 148. ARCO, BP and Thrifty at times relevant herein violated Title 23, section 2725(c)
22 by failing to submit corrective action plans to the regulatory agencies for review and concurrence
23 or to modify such corrective action plans in response to regulatory agency directives.

24 149. ARCO, BP and Thrifty at times relevant herein violated Title 23, section 2725(d)
25 by failing to include in corrective action plans all required items and information.

26 150. ARCO, BP and Thrifty at times relevant herein violated Title 23, section 2726(a)
27 by failing to carry out the selected corrective action alternative for remediation or mitigation of
28 the actual or potential adverse effects of unauthorized releases.

1 151. ARCO, BP and Thrifty at times relevant herein violated Title 23, section 2726(b)
2 by failing to implement corrective action plans upon approval by the regulatory agencies, or to
3 implement them as directed by the regulatory agencies, or to monitor, evaluate, or report the
4 results of implementation of corrective action to the regulatory agencies.

5 152. ARCO, BP and Thrifty at times relevant herein violated Title 23, section 2727(a)
6 by failing to verify implementation of the corrective action plan or to evaluate the effectiveness
7 of the site work.

8 153. ARCO, BP and Thrifty at times relevant herein violated Title 23, section 2727(b)
9 by failing to verify completion of the corrective action plans or to evaluate the effectiveness of
10 site work.

11 154. ARCO, BP and Thrifty at times relevant herein violated Title 23, section 2727(c)
12 by failing to submit monitoring data or an evaluation of monitoring results in writing on a
13 schedule and for a duration agreed to by the regulatory agencies.

14 **SIXTH CAUSE OF ACTION**

15 **VIOLATION OF HEALTH AND SAFETY CODE SECTION 25299**
16 **AND REGULATIONS ENACTED PURSUANT THERETO**

17 **Failure to Comply with Owner/Operator Requirements for Underground Tank Systems**
18 **Against Defendants ARCO, BP and Thrifty**

19 155. The People reallege and incorporate by reference paragraphs 1 through 122,
20 inclusive, as though set forth fully and at length herein.

21 156. ARCO, BP and Thrifty at times relevant herein violated Health and Safety Code
22 section 25299(a)(1) by operating underground tank systems which had not been issued permits.

23 157. ARCO, BP and Thrifty at times relevant herein violated Health and Safety Code
24 section 25299(a)(2) by failing to comply with all applicable permit requirements for the
25 operation of underground tank systems.

26 158. ARCO, BP and Thrifty at times relevant herein violated Health and Safety Code
27 section 25299(a)(3) by failing to maintain records as required by Chapter 6.7 of Division 20 of
28 the Health and Safety Code and/or the regulations adopted pursuant to Health and Safety Code

1 section 25299.3.

2 159. ARCO, BP and Thrifty at times relevant herein violated Health and Safety Code
3 section 25299(a)(4) by failing to report unauthorized releases from their underground storage
4 tank systems.

5 160. ARCO, BP and Thrifty at times relevant herein violated Health and Safety Code
6 section 25299(a)(5) by failing to properly close underground tank systems as required by Health
7 and Safety Code Section 25298.

8 161. ARCO, BP and Thrifty at times relevant herein violated Health and Safety Code
9 section 25299(a)(6) by violating applicable requirements of Chapter 6.7 of Division 20 of the
10 Health and Safety Code and/or the regulations adopted pursuant to Health and Safety Code
11 Section 25299.3.

12 162. ARCO, BP and Thrifty at times relevant herein violated Health and Safety Code
13 section 25292.1(a) by failing to operate underground tank systems to prevent unauthorized
14 releases of motor vehicle fuel.

15 163. ARCO, BP and Thrifty at times relevant herein violated Health and Safety Code
16 section 25299(b)(1) by failing to obtain permits as required by law.

17 164. ARCO, BP and Thrifty at times relevant herein violated Health and Safety Code
18 section 25299(b)(2) by failing to repair or upgrade underground tank systems as required by law.

19 165. ARCO, BP and Thrifty at times relevant herein violated Health and Safety Code
20 section 25299(b)(3) by abandoning or improperly closing underground tank systems.

21 166. ARCO, BP and Thrifty at times relevant herein violated Health and Safety Code
22 section 25299(b)(4) by their knowing failure to take reasonable and necessary steps to assure
23 compliance with applicable laws and regulations by the operators of an underground storage tank
24 systems.

25 167. ARCO, BP and Thrifty at times relevant herein violated Health and Safety Code
26 section 25299(b)(5) by failing to comply with all applicable requirements of the permit issued for
27 the operation of an underground tank system.

28 168. ARCO, BP and Thrifty at times relevant herein violated Health and Safety Code

1 section 25299(b)(6) by failing to comply with applicable requirements of Chapter 6.7 of Division
2 20 of the Health and Safety Code and/or the regulations adopted pursuant to Health and Safety
3 Code Section 25299.3.

4 **SEVENTH CAUSE OF ACTION**

5 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

6 **Acts of Unlawful, Unfair and Fraudulent Business Practice Against All Defendants**

7 169. The People reallege and incorporate by reference paragraphs 1 through 168.
8 inclusive, as though set forth fully and at length herein.

9 170. Defendants, and each of them, at times relevant herein committed business acts
10 and practices which are unlawful, unfair or fraudulent in violation of Business and Professions
11 Code section 17200. These acts and practices include, but are not limited to, the following:

12 A. All of the acts, practices and violations of law as alleged in paragraphs 116
13 through 168 of the First through Sixth Causes of Action, inclusive, which the People reallege and
14 incorporate by reference as though set forth fully and at length herein.

15 B. Defendants, and each of them, at times relevant herein have not cleaned up
16 discharges of Methyl Tertiary-Butyl Ether (MTBE) which pose a threat to drinking water, or to
17 groundwater that may reasonably be used for drinking water, as required by Section 13285 of the
18 Water Code.

19 C. Defendants, and each of them, at times relevant herein and in violation of
20 a prohibition issued by the regional board or state board intentionally or negligently discharged
21 MTBE waste, or caused or permitted MTBE waste to be deposited where it discharged, into the
22 waters of the state and created a condition of pollution or nuisance in violation of Section
23 13350(a)(2) of the Water Code.

24 D. ARCO, BP and Thrifty at times relevant herein and in violation of a
25 prohibition issued by the regional board or state board intentionally or negligently discharged
26 BTEX and gasoline waste, or caused or permitted BTEX and gasoline waste to be deposited
27 where it discharged, into the waters of the state and created a condition of pollution or nuisance
28 in violation of Section 13350(a)(2) of the Water Code.

1 E. ARCO, BP and Thrifty at times relevant herein caused or permitted
2 residuary products of petroleum to be deposited in or on waters of the state in violation of
3 Section 13350(a)(3) of the Water Code.

4 F. Defendants, and each of them, at times relevant herein caused or permitted
5 a hazardous substance (MTBE) to be discharged in or on waters of the state where it created a
6 condition of pollution or nuisance in violation of Section 13350(b)(1) of the Water Code.

7 G. ARCO, BP and Thrifty at times relevant herein caused or permitted
8 hazardous substances (Benzene, Toluene, Ethylbenzene, Xylene and gasoline) to be discharged
9 in or on waters of the state where they created a condition of pollution or nuisance in violation of
10 Section 13350(b)(1) of the Water Code.

11 H. Defendants, and each of them, at times relevant herein caused the
12 degradation of groundwater quality in the Santa Ana River Basin to the detriment of the peace,
13 health, safety and welfare of the people of the state of California and the County of Orange in
14 contravention of the express intent of the legislature to prevent such degradation and protect the
15 waters of the state as declared in Sections 102, 104, 12922, 12922.1, 13000 and other sections of
16 the Water Code.

17 I. Defendants, and each of them, at times relevant herein violated the State
18 Board antidegradation policy established for waters of the state in Resolution No. 68-16
19 "Statement of Policy with Respect to Maintaining High Quality Waters of California".

20 J. ARCO, BP and Thrifty at times relevant herein violated the State Board
21 policy established for the investigation and cleanup of releases from underground storage tanks
22 in Resolution No. 92-49 "Policies and Procedures for Investigation and Cleanup and Abatement
23 of Discharges".

24 K. Defendants, and each of them, at times relevant herein violated the
25 Regional Board policy contained in the 1995 Water Quality Control Plan for the Santa Ana River
26 Basin which establishes that groundwaters of the region shall not contain, as a result of
27 controllable water quality factors, taste or odor-producing substances at concentrations which
28 cause a nuisance or adversely affect beneficial uses.

1 L. Defendants, and each of them, at times relevant herein violated the
2 Regional Board policy contained in the 1995 Water Quality Control Plan for the Santa Ana River
3 Basin which establishes that all waters of the region shall be maintained free of substances in
4 concentrations which are toxic, or that produce detrimental physiological responses in human,
5 plant or aquatic life.

6 M. Defendants, and each of them, at times relevant herein conspired to
7 commit an act or acts injurious to the public health in violation of Section 182(a)(5) of the Penal
8 Code.

9 N. ARCO, BP and Thrifty at times relevant herein should have but did not
10 begin cleanup of soil and water after submitting a corrective action plan but before such plan had
11 been approved by the regulatory agency as authorized by Section 25299.37(c)(5) of the Health
12 and Safety Code in the interest of minimizing environmental contamination and promoting
13 prompt cleanup.

14 **WHEREFORE PLAINTIFF PRAYS THAT:**

15 1. Pursuant to Civil Code sections 3479 and 3480, Code of Civil Procedure section
16 731, Business and Professions Code section 17203, Health and Safety Code sections 25299.01
17 and 25249.7 and Fish and Game Code section 5650.1, defendants, and each of them, be ordered
18 to effectively and expeditiously cleanup and abate contaminant plumes consisting of gasoline, its
19 constituent chemicals Benzene, Toluene, Ethylbenzene and Xylene, and the chemical additive
20 MTBE declared by the court to constitute a public nuisance or which were otherwise caused by
21 their violation of the laws, statutes and policies set forth in the First through Seventh Causes of
22 Action herein.

23 2. Pursuant to Code of Civil Procedure section 731, defendants, and each of them, be
24 ordered to pay damages according to proof where cleanup and abatement of contaminated
25 groundwater cannot be achieved and has resulted in the creation of a permanent nuisance.

26 3. Pursuant to Code of Civil Procedure section 731, Business and Professions Code
27 section 17203, Health and Safety Code sections 25299.01 and 25249.7 and Fish and Game Code
28 section 5650.1, defendants, and each of them be temporarily, preliminarily, and thereafter

permanently restrained and enjoined from engaging in the acts alleged in this complaint which violate the laws, regulations and policies as set forth herein.

4. Pursuant to Health and Safety Code sections 25299, 25299.76, 25249.7 and
25189.2, Business and Professions Code section 17206 and Fish and Game Code section 5650.1,
defendants, and each of them, be assessed and plaintiff recover civil penalties for each violation
of law proved at trial.

5. Pursuant to Business and Professions Code section 17203 and the inherent equitable powers of the Court, the Court order defendants, and each of them, to disgorge profits obtained as a result of their unlawful, unfair and fraudulent business practices.

6. The Court order such other and further relief as the Court deems proper to fully and successfully dissipate the adverse effects of defendants unlawful acts and to prevent defendants from committing such unlawful acts in the future.

**TONY RACKAUCKAS, DISTRICT ATTORNEY
COUNTY OF ORANGE, STATE OF CALIFORNIA**

BY: MICHELLE M. LYMAN
MICHELLE M. LYMAN
DEPUTY DISTRICT ATTORNEY

DATED: 7/17/00

EXHIBIT A

OCWD-MTBE-001-102513

EXHIBIT A

301 S. Anaheim Blvd. Anaheim, CA	301 S. Euclid Ave. Anaheim, CA	530 N. Brookhurst St. Anaheim, CA
700 S. State College Anaheim, CA	1000 N. State College Anaheim, CA	1037 W. Ball Road Anaheim, CA
1201 S. Brookhurst St. Anaheim, CA	1700 W. La Palma Ave. Anaheim, CA	1801 S. State College Anaheim, CA
2101 S. Harbor Blvd. Anaheim, CA	2401 Lincoln Ave. Anaheim, CA	2445 E. Ball Rd. Anaheim, CA
2791 E. Lincoln Ave. Anaheim, CA	3901 Riverdale Ave. Anaheim, CA	5700 E. La Palma Ave. Anaheim, CA
7760 Crescent Ave. Buena Park, CA	7990 Knott Ave. Buena Park, CA	300 Bristol Costa Mesa, CA
1450 Baker St. Costa Mesa, CA	2490 Fairview Costa Mesa, CA	3003 Newport Blvd. Costa Mesa, CA
3201 Harbor Blvd. Costa Mesa, CA	4988 Ball Rd. Cypress, CA	5012 Lincoln Ave. Cypress, CA
34342 Coast Hwy. Dana Point, CA	20572 Lake Forest El Toro, CA	23742 El Toro Rd. El Toro, CA
10975 Edinger Ave. Fountain Valley, CA	17520 Brookhurst St. Fountain Valley, CA	18025 Magnolia Ave. Fountain Valley, CA
18480 Brookhurst St. Fountain Valley, CA	18520 Brookhurst St. Fountain Valley, CA	401 N. Placentia Fullerton
519 Harbor Blvd. Fullerton, CA	1000 W. Valencia Dr. Fullerton, CA	1124 E. Chapman Ave. Fullerton, CA
1202 E. Orangethorpe Ave. Fullerton, CA	2045 Commonwealth Fullerton, CA	2840 E. Imperial Hwy. Fullerton, CA
9001 Garden Grove Blvd. Garden Grove, CA	12502 Harbor Blvd. Garden Grove, CA	13331 Euclid Ave. Garden Grove, CA
13361 Harbor Blvd. Garden Grove, CA	13482 Brookhurst St. Garden Grove, CA	5981 Warner Ave. Huntington Beach, CA

EXHIBIT A (p. 2)

6002 Bolsa Ave. Huntington Beach, CA	16501 Goldenwest Ave. Huntington Beach, CA	16502 Bolsa Ave. Huntington Beach, CA
16742 Beach Blvd. Huntington Beach, CA	17502 Goldenwest Ave. Huntington Beach, CA	18972 Beach Blvd. Huntington Beach, CA
21452 Brookhurst Huntington Beach, CA	1490 S. Harbor Blvd. La Habra, CA	5472 Orangethorpe La Palma, CA
24181 Moulton Parkway Laguna Hills, CA	27491 La Paz Rd. Laguna Nigel, CA	11171 Los Alamitos Los Alamitos, CA
23921 Alicia Parkway Mission Viejo, CA	25122 Marguerite Parkway Mission Viejo, CA	26001 La Paz Rd. Mission Viejo, CA
27682 Crown Valley Pkwy. Mission Viejo, CA	2100 S.E. Bristol Rd. Newport Beach, CA	100 N. Tustin Ave. Orange, CA
480 N. Glassell Orange, CA	883 N. Tustin Ave. Orange, CA	890 N. Batavia St. Orange, CA
1935 E. Katella Ave. Orange, CA	2937 E. Chapman Orange, CA	102 E. Yorba Linda Blvd. Placentia, CA
1201 E. Imperial Hwy. Placentia, CA	422 De La Estrella San Clemente, CA	2749 N. El Camino Real San Clemente, CA
302 W. First St. Santa Ana, CA	324 S. Grand Ave. Santa Ana, CA	1222 E. First St. Santa Ana, CA
1620 N. Broadway Santa Ana, CA	2245 S. Main St. Santa Ana, CA	2646 W. First St. Santa Ana, CA
2721 W. Edinger Ave. Santa Ana, CA	3414 S. Main St. Santa Ana, CA	490 Pacific Coast Hwy. Seal Beach, CA
13742 Red Hill Ave. Tustin, CA	13871 Red Hill Ave. Tustin, CA	14231 Red Hill Ave. Tustin, CA
14244 Newport Ave. Tustin, CA	6982 Westminster Ave. Westminster, CA	13142 Goldenwest Westminster, CA
14511 Brookhurst Ave. Westminster, CA	2361 La Palma Ave. Yorba Linda, CA	14493 Culver Drive Irvine, CA

EXHIBIT A (p. 3)

2990 Bristol Street Costa Mesa, CA	5971 Lincoln Avenue Buena Park, CA	16751 Yorba Linda Blvd. Yorba Linda, CA
601 S. Magnolia Ave. Anaheim, CA	12422 Valley View Street Garden Grove, CA	3470 Fairview Costa Mesa, CA
2604 W. La Palma Anaheim, CA	3361 S. Bristol St. Santa Ana, CA	6370 Manchester Blvd. Buena Park, CA
2302 N. Grand Ave. Santa Ana, CA	490 East 17 th Street Costa Mesa, CA	

EXHIBIT B

OCWD-MTBE-001-102517

EXHIBIT B

704 N. Bristol St. Santa Ana, CA	120 E. Imperial Hwy. Brea, CA	2016 W. 17 th St. Santa Ana, CA
2937 E. Chapman Ave. Orange, CA	14121 Newport Ave. Tustin, CA	291 S. Tustin St. Orange, CA
304 S. Magnolia Ave. Anaheim, CA	17475 Brookhurst St. Fountain Valley, CA	1881 W. Ball Rd. Anaheim, CA
799 W. 19 th St. Costa Mesa, CA	1539 Standard Ave. Santa Ana, CA	751 Baker St. Costa mesa, CA
7510 Orangethorpe Ave. Buena Park, CA	101 E. Whittier Blvd. La Habra, CA	718 S. Brea Blvd. Brea, CA
2351 Orangethorpe Ave. Fullerton, CA	9511 Valley View St. Cypress, CA	2811 W. Lincoln Ave. Anaheim, CA
300 S. Brookhurst St. Anaheim, CA	2102 S. Harbor Blvd. Anaheim, CA	2800 W. Ball Rd. Anaheim, CA
11500 Beach Blvd. Stanton, CA	727 S. East St. Anaheim, CA	3101 E. La Palma Ave. Anaheim, CA
2493 N. Tustin St. Orange, CA	825 E. Katella Ave. Orange, CA	6311 Westminster Blvd. Westminster, CA
13501 Magnolia St. Garden Grove, CA	13511 Euclid St. Garden Grove, CA	14472 Brookhurst St. Garden Grove, CA
2730 W. McFadden Ave. Santa Ana, CA	2940 N. Bristol St. Santa Ana, CA	801 N. Bristol St. Santa Ana, CA
324 S. Grand Ave. Santa Ana, CA	101 N. Tustin Ave. Tustin, CA	15501 Edwards St. Huntington Beach, CA
18520 Brookhurst St. Fountain Valley, CA	18975 Magnolia St. Fountain Valley, CA	19971 Beach Blvd. Huntington Beach, CA
2021 Newport Blvd. Costa Mesa, CA	590 S. Pacific Coast Hwy. Laguna Beach, CA	590 Camino de Estrella San Clemente, CA
114 S. Bristol St. Santa Ana, CA		

EXHIBIT C

OCWD-MTBE-001-102519

EXHIBIT C

1201 S. Brookhurst St.
Anaheim, CA

1450 Baker St.
Costa Mesa, CA

3201 Harbor Blvd.
Costa Mesa, CA

1202 E. Orangethorpe Ave.
Fullerton, CA

13482 Brookhurst St.
Garden Grove, CA

530 N. Brookhurst St.
Anaheim, CA

23742 El Toro Rd.
Lake Forest, CA

2840 E. Imperial Hwy.
Fullerton, CA

5981 Warner Ave.
Huntington Beach, CA

21452 Brookhurst
Huntington Beach, CA

17502 goldenwest Ave
Huntington Beach, CA

2245 S. Main St.
Santa Ana, CA

2646 W. First St.
Santa Ana, CA

EXHIBIT D

OCWD-MTBE-001-102521

EXHIBIT D

704 N. Bristol St. Santa Ana, CA	9511 Valley View St. Cypress, CA
799 W. 19 th St. Costa Mesa, CA	13511 Euclid St. Garden Grove, CA
7510 Orangethorpe Ave. Buena Park, CA	2016 W. 17 th St. Santa Ana, CA
13501 Magnolia St. Garden Grove, CA	1881 W. Ball Rd. Anaheim, CA
2730 W. McFadden Ave. Santa Ana, CA	751 Baker St. Costa Mesa, CA
324 S. Grand Ave. Santa Ana, CA	718 S. Brea Blvd. Brea, CA
2021 Newport Blvd. Costa Mesa, CA	2800 W. Ball Rd. Anaheim, CA
17475 Brookhurst St. Fountain Valley, CA	801 N. Bristol St. Santa Ana, CA
1539 Standard Ave. Santa Ana, CA	19971 Beach Blvd. Huntington Beach, Ca

PROOF OF PERSONAL SERVICE

I, Matthew I. Kaplan, declare:

I am employed in the County of Orange, California; I am over the age of eighteen years of age and not a party to the within action; my business address is Orange County District Attorney's Office, 401 Civic Center Drive West, Santa Ana, California 92701.

8 On September 14, 2000, I served the attached THE PEOPLE'S
9 NOTICE OF MOTION AND MOTION FOR LEAVE TO FILE A FIRST AMENDED
10 COMPLAINT; MEMORANDUM OF POINTS OF AUTHORITIES; DECLARATION OF
11 MICHELLE M. LYMAN on the interested parties in this action by
12 delivering a true and correct copy of the original by hand to
13 the following address:

Joseph Butler
Beth Dorris
McKenna & Cuneo, LLP
444 South Flower Street
8th Floor
Los Angeles, California 90017

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.

Executed on September 14, 2000, in Santa Ana, California.

Signature: _____

Printed Name: _____

Exhibit C

Focus Plumes	Stations	Address	City	OCDA Judgment and Release Site
1	Arco #1887	16742 Beach Blvd.	Huntington Beach	28
2	Arco #6131	3201 Harbor Blvd.	Costa Mesa	74
3	Arco #1912	18480 Brookhurst St.	Fountain Valley	31
3	Thrifty #383	18520 Brookhurst St.	Fountain Valley	110
3	Arco #1905	18025 Magnolia St.	Fountain Valley	30
8	Arco #3085	3361 S. Bristol St.	Santa Ana	47
9	Thrifty #368	6311 Westminster Blvd.	Westminster	102
9	Huntington Beach Arco	6002 Bolsa Ave.	Huntington Beach	123
D2 (63)	Arco #6036	13142 Goldenwest St.	Westminster	66

Dropped Focus Plumes/Dismissed Sites	Stations	Address	City	OCDA Judgment and Release Site
2	Arco #3083	3470 Fairview Rd.	Costa Mesa	46
4	Thrifty #376	801 N. Bristol St.	Santa Ana	107
4	Thrifty #008	704 N. Bristol St.	Santa Ana	1**
6	Thrifty #085	17475 Brookhurst	Fountain Valley	85
6	Arco #6116	17520 Brookhurst	Fountain Valley	73
7	Arco #1994	700 S. State College Blvd.	Anaheim	36
11	Arco Master Auto Repair	2604 W. La Palma Ave.	Anaheim	119

Non-Focus Plumes	Stations	Address	City	OCDA Judgment and Release Site
13	Thrifty #150	1539 Standard Avenue	Santa Ana	87
14	Arco #1055	9001 Garden Grove Blvd.	Garden Grove	11
23	Arco #6071	3414 S. Main St.	Santa Ana	69
24	Thrifty #075	14121 Newport Blvd.	Tustin	82
24	Arco #1077	13742 Red Hill Ave.	Tustin	14
24	Arco #3045	14231 Red Hill Ave.	Tustin	41
25	Arco #5185	1450 Baker St.	Costa Mesa	58
26	Thrifty #385	19971 Beach Blvd.	Huntington Beach	112
29	Arco #1998	5472 Orangethorpe Ave.	La Palma	63
33	Thrifty #014	120 E. Imperial Hwy.	Brea	79
33	Thrifty #302	718 S. Brea Blvd.	Brea	91
34	Arco #3080	2840 E. Imperial Hwy.	Fullerton	45
37	Arco #0629	13482 Brookhurst St.	Garden Grove	7
38	Arco #3042	13331 Euclid St.	Garden Grove	40
38	Thrifty #371	13511 Euclid Street	Garden Grove	104
39	Arco #0192	2100 SE. Bristol St.	Santa Ana	3
42	Arco #3053	5981 Warner Ave.	Huntington Beach	43
44	Thrifty #182	7510 Orangethorpe Ave.	Buena Park	89
47	Arco #6060	21452 Brookhurst St.	Huntington Beach	67
48	Thrifty #386	2021 Newport Ave.	Costa Mesa	113
53	Arco #1047	2646 W. 1st St.	Santa Ana	10
54	Arco #1064	14511 Brookhurst St.	Westminster	12
55	Arco #1583	7990 Knott Avenue	Buena Park	18
56	Arco #1812	16502 Bolsa Chica St.	Huntington Beach	25
57	Arco #1888	16501 Goldenwest St.	Huntington Beach	29
58	Arco #3016	12422 Valley View Street	Garden Grove	38
60	Arco #3094	530 N. Brookhurst Avenue	Anaheim	50
61	Arco #5084	490 E. 17th St.	Costa Mesa	54
62	Arco #5202	12502 Harbor Blvd.	Garden Grove	59
64	Arco #6160	13361 Harbor Blvd	Garden Grove	76
65	Arco #6191	17502 Golden West St.	Huntington Beach	77
66	Arco #6226	102 E. Yorba Linda Blvd.	Placentia	78

Non-Focus Plumes	Stations	Address	City	OCDA Judgment and Release Site
99	Arco #6079	3901 Riverdale Ave.	Anaheim	70
100	Thrifty #015	2016 W. Seventeenth Street	Santa Ana	80
101	Thrifty #139	799 W. 19th Street	Costa Mesa	86
102	Thrifty #151	751 Baker St.	Costa Mesa	88
103	Thrifty #356	9511 Valley View St.	Cypress	61
104	Thrifty #360	2800 W. Ball Road	Anaheim	96
105	Thrifty #361	11500 Beach Boulevard	Stanton	97
106	Thrifty #370	13501 Magnolia Ave.	Garden Grove	103
107	Thrifty #374	2730 McFadden Ave.	Santa Ana	105
108	Thrifty #380	15501 Edwards Street	Huntington Beach	109
109	Thrifty #384	18795 Magnolia Blvd.	Fountain Valley	111
110	Arco #1072	1202 E. Orangethorpe Ave.	Fullerton	13

*Includes Locations Subject To Claims Identified As "Nonripe" By OCWD In February 2009

**Site appears on Exhibit B to Judgment. All others appear on Exhibit A.

Exhibit D



ORANGE COUNTY WATER DISTRICT

Memo

To: Orange County Water District Producers
From: John Kennedy *Ron W for*
CC: Orange County Water District Board Members, Bill Mills
Date: October 20, 2000
Re: Copy of Orange County District Attorney's Complaint Against ARCO et al

Attached Orange County District Attorney's Complaint Against ARCO is provided for your information, also included are a related press release and news clippings.



Orange County District Attorney

Press Release

TONY RACKAUCKAS, District Attorney
401 Civic Center Drive West
Santa Ana, CA 92701

FOR IMMEDIATE RELEASE
Oct. 19, 2000

Contact: DDA Michelle Lyman
(714) 347-8720

ARCO and Thrifty Oil Prosecuted for Polluting Groundwater

SANTA ANA --- The Orange County District Attorney's Office has filed a major lawsuit against two oil companies who have been accused of polluting the soil and/or groundwater at stations in 25 cities.

Defendants Atlantic Richfield Co., Thrifty Oil Co., BP Amoco Corp., ARCO Chemical Corp. and Lyondell Chemical Co. have known since the 1980s that their national network of underground storage tanks leak gasoline into the environment, but did not stop it, according to the complaint. Locally, ARCO and Thrifty have known for more than 10 years about groundwater contamination caused by some of their tanks.

The original complaint, which names only Atlantic Richfield (ARCO), was filed on Jan. 6, 1999. It was amended on Oct. 5, 2000 to include the additional defendants, allege contamination at 116 gas stations countywide, and allege operational violations. Pollution of this nature caused by ARCO, Thrifty and other gas stations could cause Orange County to lose a substantial portion of its water supply.

For example, in one area of North Orange County, groundwater pollution is so bad that two wells cannot be used to provide drinking water to the city of Yorba Linda. The source of this pollution has not been determined.

Since the filing of the original complaint, prosecutors have negotiated with ARCO to start performing required cleanup at their gas stations. Prosecutors have also tried to settle this case since the original filing and renewed their efforts over the past two weeks but unfortunately could not reach an agreement.

Contaminants that have been released into the groundwater include benzene, which may cause cancer; toluene, which adversely affects the brain; and MTBE, which causes drinking water to taste like turpentine and is a suspected carcinogen.

more

According to the complaint, 102 sites have groundwater contamination – 60 involving ARCO and 42 involving Thrifty. Fourteen additional ARCO sites have soil contamination only. Cleanup of all sites is underway, but could take years to complete.

The complaint also alleges hundreds of underground storage tank operational violations such as tampering with leak-detection equipment, failing to perform proper maintenance on their tanks, and operating faulty equipment.

These violations came to the attention of the District Attorney's Office at the end of 1998 when an environmental watchdog group took steps to file a lawsuit. Under the Safe Drinking Water and Toxic Enforcement Act of 1986, district attorneys are notified of any citizen attempt to file a lawsuit and are given the option of taking over the prosecution. This is what happened in this case.

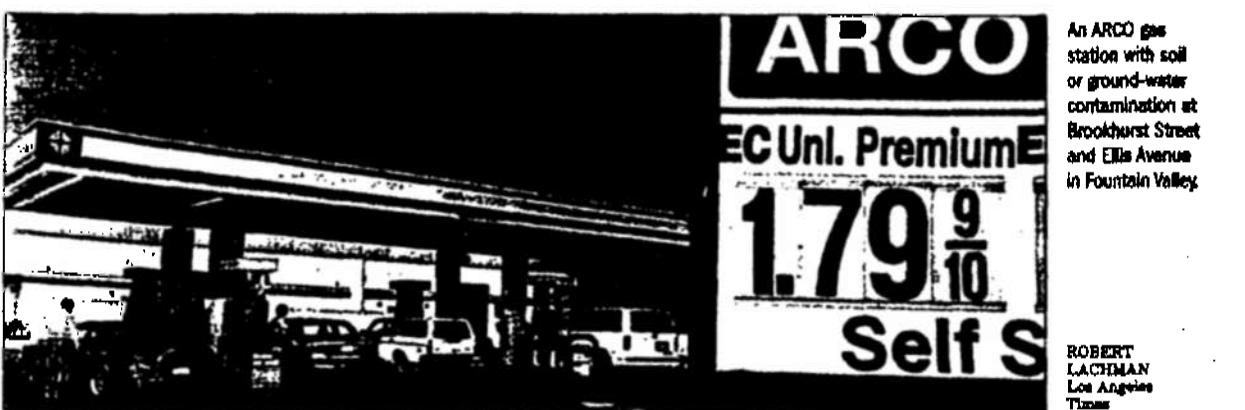
No other district attorney's office in the state is known to have tackled a case involving so many gas stations. The last oil company prosecution in Orange County was very successful, leading to a change in state law. In 1998, Mobil Oil settled a lawsuit for \$1 million for tampering with tank monitoring equipment. As a result, a new law was created that allows prosecutors to file such violations as a criminal case rather than a civil matter.

Fines for operational violations range from \$500 to \$5,000 a day. Penalties for violating cleanup requirements on each gas station can reach \$10,000 per day.

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RW

Los Angeles Times – Orange County Edition
 Friday, October 20, 2000
 Page B1



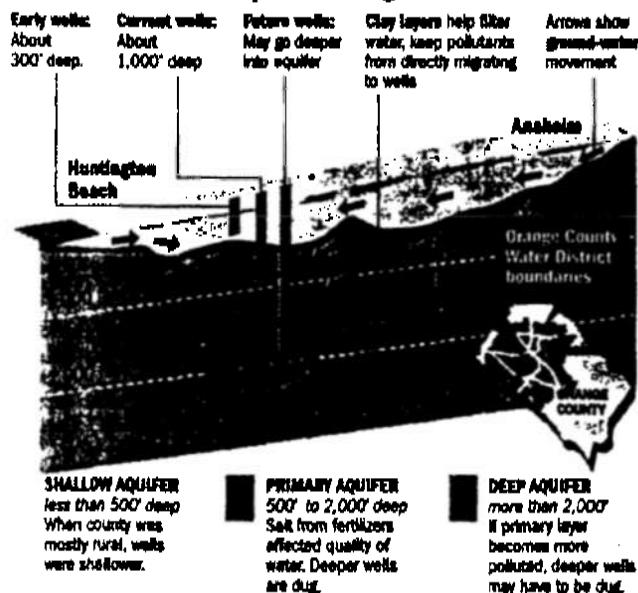
An ARCO gas station with soil or ground-water contamination at Brookhurst Street and Ellis Avenue in Fountain Valley.

ROBERT LACHMAN
Los Angeles Times

Pollution Lawsuit

Prosecutors accuse two oil companies of polluting the ground water with fuel leaking from more than 100 gas stations across the county, saying that the pollution is a threat to the drinking water supply. How pollution affects the supply:

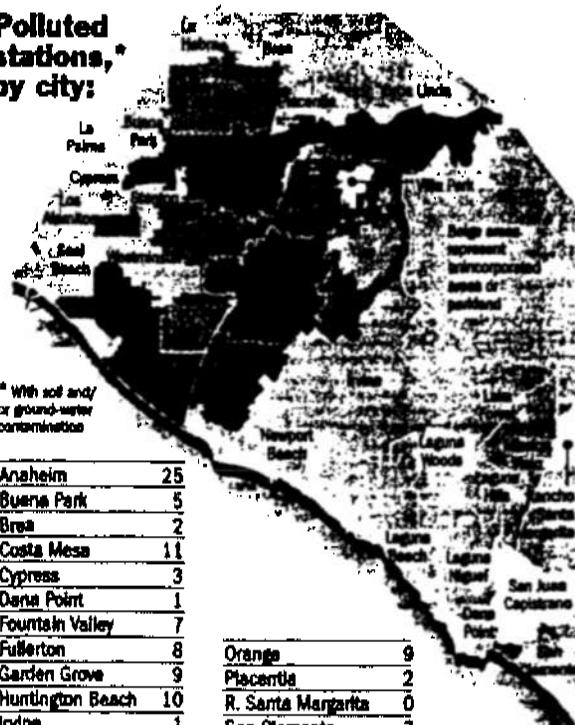
Cross-section of aquifer along Santa Ana River



NOTE: Orange County gets more than 50% of its water from its underground aquifer, which is replenished when water trapped in reservoirs percolates into the ground.

Source: Orange County Water District, Orange County district attorney's office

Polluted stations,* by city:



* With soil and/or ground-water contamination

	Number of Stations
Anaheim	25
Buena Park	5
Brea	2
Costa Mesa	11
Cypress	3
Dana Point	1
Fountain Valley	7
Fullerton	8
Garden Grove	9
Huntington Beach	10
Irvine	1
Laguna Beach	1
Laguna Niguel	1
Laguna Woods	0
La Habra	1
Lake Forest	2
Los Alamitos	1
Mission Viejo	4
Newport Beach	1
Orange	9
Placentia	2
R. Santa Margarita	0
San Clemente	3
San Juan Capistrano	0
Santa Ana	18
Seal Beach	1
Stanton	1
Tustin	6
Villa Park	0
Westminster	4
Yorba Linda	2

Number of Stations

- 1-5
- 6-9
- 10-19
- 20 or more

Los Angeles Times – Orange County Edition
Friday, October 20, 2000
Page B1

County Seeks Millions From Oil Firms

■ Lawsuit alleges the region's ground water was contaminated by leaky storage tanks at more than 100 gas stations owned by ARCO and Thrifty Oil. Talks are stalled.

By STUART PFEIFFER
TIMES STAFF WRITER

Orange County prosecutors disclosed Thursday that they are seeking millions of dollars in civil penalties from two oil companies blamed for contaminating ground water underneath more than 100 gas stations across the county.

Prosecutors are seeking the fines as part of a 1999 lawsuit against Atlantic Richfield Co. and Thrifty Oil, which are trying to clean up their leaking underground gas storage tanks, said Deputy Dist. Atty. Michelle Lyman.

Ground-water purity has been a longtime concern in Orange County, where service stations and about 1,000 wells sit practically side by side. More than 50% of the county's drinking water comes from local wells.

Dist. Atty. Tony Rackauckas said he hopes to collect "at least a few million dollars" in penalties from the two oil companies. That money—and any fines collected in similar suits against other oil companies—would be put into a fund that the county's water districts could tap for cleanup efforts.

The groundwater contamination has not reached the deep aquifers that provide the county's drinking water, Lyman said.

But water officials closed two wells last year after tests detected trace amounts of a contaminant linked to gasoline; no contaminated water was reported to have reached taps. Officials also are monitoring a well in east Anaheim, where trace amounts of the contaminant MTBE were found.

Experts said extensive testing will keep contaminants from making it to Orange County taps. But if the ground-water supply is contaminated, the county would have to buy more expensive water from other places.

Lyman said it is important for prosecutors to act now, before the hidden ocean beneath the county is tainted.

"This is a preemptive strike," Lyman said. "We don't want to sit here twiddling our thumbs while this stuff is approaching our water."

Please see WATER, B12

B12 A FRIDAY, OCTOBER 20, 2000 • ORANGE COUNTY | FRIDAY •

WATER: Oil Firms Blamed

Continued from Page

And although it could take a decade or longer for contaminants to percolate through gravel and sand into drinking water reserves, regulators are aware of drinking water dangers in Syria. Monica Cambios

disasters in Sausalito, California and Lake Tahoe in recent years. In those communities, wells became contaminated and agencies had to turn elsewhere for drinking water.

The ground-water contamination sites that prosecutors allege are the responsibility of ARCO and Thrifty Oil are among about 750 ground-water cleanup cases in

Orange County, Lyman said. ARCO is believed to be the largest polluter of the county's ground water.

An ARCO spokeswoman said Thursday that she does not understand why officials called a news conference to discuss the suit, which was filed in January 1999.

"We want to work with them," said spokeswoman Cheryl Burnett. "We just need to know specifically what their issues are."

The main issue appears to be money. Lyman said prosecutors and the oil companies have reached an impasse over the appropriate civil penalty. Negotiations are also

underway with other oil companies.
Correspondent *Lamis* being constituted
to this report.

Newport Bay Dredging Bill Advances

A federal bill that would establish a 20-year, \$21-million endowment for the dredging and ecological improvement of Upper Newport Bay cleared the last major hurdle Thursday on its path to becoming law, legislation said.

A version of the bill by Cox to 1. After approving uniform versions of the bill, probably next week, the two houses of Congress will send it to President Clinton for signing, sources at Cox's office said.

Under the bill, the federal

"It looks as if my pie-in-the sky dream . . . has made it," said Rep. Christopher Cox (R-Newport Beach), who has been pushing for the legislation since 1995.

A House of Representatives version of the measure, contained in the Water Resources Development Act, passed overwhelmingly Thursday.

money, along with about \$11 million in state and local matching funds, will provide about \$1 million a year for the work. For years, Congress has authorized funds for the removal of sediment from Upper Newport Bay, but the money had frequently been delayed by political wrangling.

—DAVID HALDANE

Orange County Register
Friday, October 20, 2000
Local News, Page 6

Prosecutors allege MTBE conspiracy

ENVIRONMENT: Reports showed problems, but oil distributors allegedly looked the other way. Arco denies allegations.

By PAT BRENNAN
The Orange County Register

As early as 1983, prosecutors allege, the American Petroleum Institute learned that the fuel additive MTBE gave off a noticeable odor and taste in tiny quantities - a few parts per billion.

Throughout the 1980s, reports from scientists began to suggest that MTBE was highly soluble and could potentially contaminate ground water, according to a lawsuit filed by the Orange County District Attorney's Office against Arco and Thrifty Oil Co.

But, while Arco and other distributors had access to this information, they continued to tell regulators, and the public, that there was little or no risk from the use of MTBE, the prosecutors allege.

Arco spokesman Paul Langland said Thursday that those allegations do not match up with the facts as he knows them. Thrifty officials could not be reached Thursday.

If the case goes to trial - a possibility, say prosecutors frustrated by their inability to settle with Arco - the alleged conspiracy will be at the heart of their case.

Both Arco and prosecutors said the oil company is now taking steps to clean up more than 100 contaminated sites named in the lawsuit. An impasse in settlement negotiations is solely related to the size of the penalty Arco would pay.

Neither side would discuss potential amounts.

If the case goes to trial, penalties could rise into the hundreds of millions of dollars, said Deputy District Attorney Michelle Lyman.

ON PAGE 1

The Orange County district attorney has filed suit against Arco for aquifer contamination from MTBE leaking from underground fuel storage tanks. Story on News 1

Prosecutors say the contamination - including not only MTBE but benzene and toluene, which can also cause health problems - has little chance of reaching the taps of Orange County residents. Monitoring of drinking water wells would catch the contamination and cause the wells to be shut down before contaminated water could reach consumers.

Instead, the contamination represents a potentially enormous impact on public funds if it seeps from shallow ground water into deeper aquifers. The county draws about 75 percent of its drinking water from these deep, natural reservoirs.

"We're starting to find evidence that MTBE is getting down there," Lyman said.

Removing MTBE once it reaches these aquifers is a difficult, expensive process, Lyman said.

MTBE, or methyl tertiary butyl ether, was until recently thought to be an important tool for fighting pollution.

Oil companies began adding the chemical to gasoline in 1979, and its use spread until the late 1990s. It is one of a class of oxygenates that cause the fuel to burn more cleanly, reducing air pollution; such chemicals were mandated by the state in 1996.

But the chemical, which leaks from underground fuel storage tanks and moves through water quickly, had already begun to contaminate some drinking water. It was first detected in wells used to monitor water quality in Anaheim, though no drinking water was then affected. The chemical shut down wells in Santa Monica, South Lake Tahoe and Cambria.

Arco sued over gas additive leak

ENVIRONMENT: O.C. district attorney says ground water tainted by possible carcinogen.

By PAT BRENNAN
The Orange County Register

Arco has negligently allowed a fuel-busting fuel additive that may cause cancer to leak into Orange County's ground water, the result of a "conspiracy" among oil distributors that reaches back to the 1980s, the District Attorney's Office contends in a lawsuit seeking millions of dollars in damages. Prosecutors say Arco and Thrifty Oil Co. are responsible for ground-water contamination at 102 Orange County gas stations. Fourteen more Arco sites have contaminated soil, the suit alleges. There is no immediate health threat.

In a news conference Thursday, District Attorney Tony Racine has called the lawsuit filed in January and expanded this month, the largest of its kind in state history. The prosecutors decided to call the case to the public's attention after settlement negotiations with Arco broke down.

"We need to protect the environment. We need to make sure the leaks are stopped and that the pollution is cleaned up," Racine has said. "The defendants must be held accountable for their conduct."

Arco spokesman Paul Langland said that, while negotiations have reached an impasse,

it is largely because the District Attorney's Office has been unclear about the level of fine it wishes to impose or the nature of the violations if

MORE INSIDE

► **Lawsuit:** Oil companies are accused of a conspiracy. **Next:** \$

would be based on. He also rejected the allegations that Arco had taken part in a conspiracy - having learned, along with other distributors, of potential problems with the fuel additive MTBE as early as 1983 but covering up those problems until the mid-to-late 1990s.

"I think it's more of a legal tactic than anything else," Langland said of the conspiracy allegations in the lawsuit. Regulators consider MTBE a possible carcinogen. But people can taste and smell the chemical at far lower levels than those that trigger health concerns.

1 TONY RACKAUCKAS, District Attorney
2 County of Orange, State of California
3 JAN C. STURLA, Senior Assistant District Attorney
4 ROBERT C. GANNON, JR., Assistant District Attorney
Consumer and Environmental Protection Unit
BY: MICHELLE M. LYMAN (Bar No. 121780)
Deputy District Attorney
5 401 Civic Center Drive West, 5th Floor
Santa Ana, California 92701-4575
Telephone: (714) 347-8706
Facsimile: (714) 796-0476

7 Attorneys for Plaintiff
8 THE PEOPLE OF THE STATE OF CALIFORNIA

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF ORANGE-CENTRAL JUSTICE CENTER

11 THE PEOPLE OF THE STATE OF CALIFORNIA,) CASE NO. 80-40-30
12 Plaintiff,) ASSIGNED FOR ALL PURPOSES TO:
vs.) JUDGE JOHN C. WOOLLEY
13) DEPARTMENT C6
14 ATLANTIC RICHFIELD COMPANY, a Delaware) FIRST AMENDED COMPLAINT
corporation doing business as ARCO; BP AMOCO) FOR INJUNCTION, COMPLIANCE
15 CORPORATION; ARCO CHEMICAL COMPANY; LYONDELL) ORDER, CIVIL PENALTIES
CHEMICAL COMPANY; THRIFTY OIL COMPANY; DOES 5 through 200, inclusive,) AND OTHER RELIEF
16)
17 Defendant.)

18 Plaintiff, the People of the State of California, by and through Tony Rackauckas, District
19 Attorney for the County of Orange, alleges:

20 VENUE AND JURISDICTION

21 1. Tony Rackauckas, the District Attorney of the County of Orange ("District
22 Attorney") brings this action on behalf of the People of the State of California ("the People") to:
23 (1) protect the public from health and safety hazards, (2) prevent destruction of Orange County's
24 groundwater resources and otherwise protect the environment, and (3) protect the People from
25 unfair, unlawful and fraudulent business practices.

26 2. The District Attorney brings this action pursuant to Code of Civil Procedure
27 section 731, Civil Code sections 3479 and 3480, Health and Safety Code sections 25299,
28 25299.01, 25299.37, 25299.76, 25249.5, 25249.7, 25189.2(c), Water Code sections 13285 and

FILED

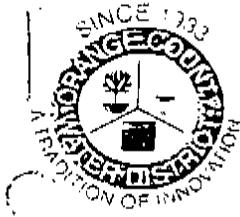
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

OCT 05 2000

ALAN SLATER, Clerk of the Court

BY: N. ABURTO DEPUTY

Exhibit E



WORKING COPY
FOR
[Signature]

ORANGE
COUNTY
WATER
DISTRICT

July 14, 2000

Mr. Jack Miller
Director of Environmental Health
County of Orange
2009 East Edinger
Santa Ana, CA 92705

Re: MTBE Contamination in the Irvine Area

Dear Mr. Miller:

We have a particular problem which we would like to have your agency and the District Attorney help us to solve with respect to a project in the Irvine area. The Orange County Water District (OCWD) and the Irvine Ranch Water District (IRWD), in cooperation with the United States Navy, are in the process of designing and building water treatment facilities in the vicinity of the former El Toro Marine Corps Air Station to remove nitrates, dissolved solids, and VOCs from the groundwater so that it may be available for municipal uses.

MTBE contamination has been detected at several gas stations in the Irvine area that could interfere with the above-described treatment facilities, referred to as the Irvine Desalter Project (IDP). MTBE, as you know, is a difficult chemical to treat once it reaches the deep aquifers and becomes dispersed. It is therefore extremely important that contamination at these stations be immediately characterized and remediated before they further threaten the groundwater. We are therefore requesting, with the utmost urgency, that you require the involved oil companies to immediately take steps to contain and extract the contaminated groundwater arising from the leaking tanks on these sites so that we will not have to deal with these contaminants later on on a larger scale and at greater expense.

MAILING ADDRESS:
P.O. BOX 8300
FOUNTAIN VALLEY
CA 92728-8300

10500 ELLIS AVENUE
FOUNTAIN VALLEY
CA 92708

TELEPHONE (714) 378-3200
FAX (714) 379-3371
wmills@ocwd.com

Mr. Jack Miller
July 14, 2000
Page Two

Roy Herndon and Richard Bell from OCWD and IRWD, respectively, met with Joyce Krall and Jim Strozier of your staff on June 13, 2000 regarding MTBE contamination of groundwater below several gasoline stations in the vicinity of the Irvine Desalter Project (see attached map). Our staff was advised of MTBE groundwater contamination at the following stations:

Unocal	Sand Canyon @ I-5	
Unocal	Irvine Blvd. near Yale	85UT45
Unocal	Jeffrey @ Walnut	98UT52
Shell	Trabuco near Culver	98UT15
Chevron	Culver near Walnut	99UT7
Mobil (former ARCO)	Culver near Walnut	

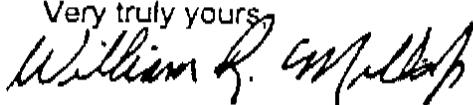
These stations are located very close to planned IDP production wells. An immediate concern is the spreading of the MTBE plume and unknown vertical extent of the plume below each of these sites. We anticipate construction of the IDP production wells by July 2002. It is critical that the MTBE plumes be substantially remediated and fully contained from the influence of the IDP production wells prior to their start up.

The Orange County Water District has appreciated the opportunity to provide technical assistance to your department and to the Orange County District Attorney to help in the enforcement of cleanup of MTBE and other petroleum contaminants from leaking gasoline storage tanks in Orange County. The vigorous enforcement of the underground storage tank law by your agencies is acknowledged and commended.

I am sending a copy of this letter to the District Attorney because it is my understanding that he is involved in litigation against oil companies in an effort to address the MTBE problem with a greater sense of urgency.

Mr. Jack Miller
July 14, 2000
Page Three

We appreciate your assistance in this matter.

Very truly yours,

William R. Mills Jr.
General Manager

cc: Anthony Rackauckas, District Attorney - County of Orange
Robert Gannon, Assistant District Attorney - County of Orange
Michelle Lyman, Deputy District Attorney - County of Orange
Paul D. Jones II, General Manager - Irvine Ranch Water District
Rex Callaway - Department of Navy
David Thompson - Department of Justice
Gerard Thibeault - Regional Water Quality Control Board

Exhibit F

Ronald E. Wildermuth

Page 1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

X

3 in re: Methyl Tertiary Butyl Ether
4 ("MTBE") Products Liability Litigation
Master File No. 1:00-1898
5 MDL No. 1358 (SAS)
M21-88

X

6 This Document Relates To:
7 Orange County Water District v. Unocal
Corporation, et al.,
8 Case No. 04 Civ. 4968 (SAS)

X

9

10

11

12 VIDEOTAPED DEPOSITION OF
13 RONALD E. WILDERMUTH

14 February 19, 2009

15

16 Taken at the Courtyard by
17 Marriott Hotel, 5865 Katella Avenue,
18 Cypress, California, before Harry A. Palter,
19 California Certified Shorthand Reporter No.
20 7708, Certified LiveNote Reporter.

21

22

GOLKOW TECHNOLOGIES, INC.
23 877.370.3377 ph | 917.591.5672 fax
deps@golkow.com

24

Ronald E. Wildermuth

Page 216

1 his stature.

2 Q. What's that?

3 A. I'm kidding.

4 Q. Did Ken Williams have a problem
5 with something that had gone on with Regional
6 Board data?

7 MS. O'REILLY: I'm going
8 to -- calls for speculation.

9 Lacks foundation.

10 Assumes facts not in
11 evidence.

12 THE WITNESS: I don't know.

13 BY MR. JEREMIAH ANDERSON:

14 Q. Did you understand Roy --
15 excuse me -- Mr. Herndon's e-mail when he
16 sent it to you?

17 A. I don't know if I understand it
18 today.

19 (Brief pause)

20 Okay.

21 Yeah.

22 I think I know what he's
23 saying.

24 Q. I just want to walk through

Ronald E. Wildermuth

Page 217

1 hero.

2 The end of the first paragraph,
3 "We've tip-toed through the MTBE mine field
4 so many times that the only way I can keep my
5 story straight is to say what I know, or
6 don't know," exclamation point.

7 What did you understand
8 Mr. Herndon to mean by that sentence?

9 A. Well, there was -- Regional
10 Board and Orange County Health had the
11 requirement to monitor and cleanup the
12 groundwater basin even before OCWD.

13 And at the same time, this DA
14 was, you know, doing the case on MTBE.

15 And I think Roy was venting
16 frustration, as you can see in this paragraph
17 about -- oh, let's see -- this wait and see.

18 Q. This gives both the oil
19 companies and the regulators a reason to take
20 a wait-and-see stance?

21 A. Yes.

22 Q. Did you ever, as public
23 information officer, send any letters to the
24 Regional Board or to the healthcare agency

Wildermuth, Ron

From: Herndon, Roy
Sent: Wednesday, October 10, 2001 9:16 AM
To: Wildermuth, Ron; Glasser, Jenny
Cc: Yamachika, Nira
Subject: RE: MTBE Query

Wildermuth Exhibit No.: 24
19 February 2009
Harry A. Paltz, California CSR No. 7708

Ron and Jenny,

I will give you my response based on my knowledge, and you can decide if you think it should be forwarded/edited. We've tiptoed through the MTBE minefield so many times that the only way I can keep my story straight is to say what I know or don't know!

#1 -- My understanding of the status of MTBE cleanups in O.C. is that there seems to be a general policy by the oil companies to proceed with soil cleanup, by excavation or soil vapor extraction (vacuum), but I rarely see any indication of groundwater cleanups that demonstrate containment of the MTBE plumes. The soil cleanups are important because they remove a large amount of MTBE near the spill that could otherwise leach into the groundwater. However, this does not address the need to cleanup the MTBE that has already reached the groundwater and in many cases has traveled off site. Why? Because groundwater cleanups are often long-term propositions, very costly, and often remove relatively small amounts of MTBE relative to the volumes of water pumped (because we're dealing with ppb-level concentrations); and the regulatory agencies (RWQCB, OCHCA) do not have the political will or ability to enforce effective (and expensive) cleanups. Another part of the reason is that, thus far, there have been no MTBE impacts on drinking water wells, except for 2 in the Yorba Linda area (neither of which exceeded the secondary MCL). This gives both the oil companies and the regulators a reason to take a wait-and-see stance. The risks of such an approach are that the local water agencies may ultimately pay the price for MTBE that eventually reaches production wells -- long after it can be traced back to a particular gas station.

#2 -- My understanding of the DA's case is that they are in the process of retaining outside legal counsel, specializing in environmental litigation, to assist them with their case. Once the outside counsel is on board, I understand activities such as information gathering (e.g., document requests, depositions) will begin in earnest. Because it is a legal matter, the DA's office is not at liberty to provide many details.

Hope this helps, Roy

-----Original Message-----

From: Wildermuth, Ron
Sent: Tuesday, October 09, 2001 6:55 PM
To: Glasser, Jenny; Herndon, Roy; Yamachika, Nira
Subject: RE: MTBE Query

Roy, remember problem in FV and also this is producer sensitive subject.
Nira and Roy, Should we send her to Reg Bd for occurrence data? remembering Ken Williams bent?
Or should we provide? ron

-----Original Message-----

From: Glasser, Jenny
Sent: Tuesday, October 09, 2001 6:17 PM
To: Herndon, Roy; Yamachika, Nira
Cc: Wildermuth, Ron
Subject: MTBE Query

Hi,

10/10/2001

Seema Mehta, reporter at LA Times is reviewing a local study (by Komex) on MTBE cleanup costs. She said the study states the cost of cleaning up the water could cost \$30 billion. Some questions I need help on:

D 12/13/01 - OCWCA

1. What is the status of MTBE cleanup?
-what is being done to clean up the MTBE?
2. What's happening right now with the DA? - *DA*

I need to respond to Seema by the end of the day on Wednesday, if possible.

Jenny Glasser
Public Affairs Specialist
Orange County Water District
10500 Ellis Avenue
Fountain Valley, CA 92708
(714) 378-3228
(714) 963-0291 fax
jglasser@ocwd.com
visit us at www.ocwd.com

10/10/2001

--
OCWD-MTBE-001-101343

Exhibit G



Orange County District Attorney Press Release

TONY RACKAUCKAS, District Attorney
401 Civic Center Drive West
Santa Ana, CA 92701

FOR IMMEDIATE RELEASE

Contact: Michelle Emard
Media Relations Director
(714) 347-8405 office
(714) 323-4486 cell
(714) 359-2239 pager

DATE: December 17, 2002

Prosecution of Oil Company by Orange County District Attorney Sets Precedent ARCO Agrees to Clean-Up More Than One Hundred Contaminated Gas Station Sites

The People of Orange County vs. ARCO Settlement

SANTA ANA – December 17, 2002 – Today Orange County District Attorney (OCDA) Tony Rackauckas announced the settlement of a multi-million dollar environmental protection lawsuit against the Atlantic Richfield Company (ARCO) on behalf of the People of Orange County. This is a case of unprecedented magnitude. It represents the largest civil litigation of its kind ever prosecuted in the United States by a district attorney on behalf of an entire county.

The case took nearly four (4) years to fully investigate, mediate and settle. During this time, the Office of the Orange County District Attorney and the County of Orange committed a record number of internal and external resources to bringing this complex lawsuit to a successful conclusion. This substantial expenditure of staff, money and time on this case was made for one very important reason: **To protect the drinking water for the citizens of Orange County.**

Threat to Supply of Drinking Water Discovered

District Attorney Rackauckas personally made the decision to file this environmental protection lawsuit based upon reports filed by local and state regulatory agencies and an environmental watchdog group called Communities for a Better Environment. These reports provided evidence that numerous state statutes and regulations related to the installation, maintenance, monitoring, permitting, testing and overall operation of underground gasoline storage tanks (UST) were being violated on an ongoing basis in Orange County.

Tests show the supply of drinking water in Orange County is currently free of contamination. However, these reports proved that there had been a failure to adequately assess and cleanup the resulting contamination of the aquifer, groundwater and soil caused by the leaking USTs. The presence of a gasoline additive called MTBE (methyl tertiary-butyl ether) in the leaking fuel added to the problem. It is more soluble and moves further and faster through groundwater than other

components of gasoline. MTBE can be detected in very small amounts because it makes the contaminated water taste and smell like turpentine, but it is extremely difficult and expensive to remove.

A majority of those living in Orange County get their drinking water from local sources. Seventy percent of the nearly three million people who live in Orange County rely upon the Santa Ana River Basin for 70% of their water supply. There are thousands of production wells that currently tap into this critical source of water and more will likely need to be drilled to meet the future water needs of Orange County. However, if the aquifer system becomes contaminated at any point, a portion of it will have to be shutdown and costly imported water will have to be purchased to make-up the shortfall in supply.

Orange County District Attorney Takes Immediate Action

Collectively, these findings indicated that a significant threat to the supply of drinking water in Orange County clearly existed and would grow worse if immediate action was not taken. District Attorney Rackauckas moved quickly to file the lawsuit, stating: **"My goal was to compel the defendants to bring all identified sites into compliance and cleanup any contamination caused by leaking underground storage tanks and retail gas station operations."**

"After being served with the lawsuit, ARCO began to take corrective action to bring all of its retail gas stations into compliance," District Attorney Rackauckas said. **"The company started making the necessary repairs to the underground storage tanks and launched a variety of remediation programs to clean-up contaminated sites. ARCO has indicated a desire to work with my office to ensure violations do not occur again so we can keep Orange County's drinking water safe today and into the future."**

OCDA Case Against ARCO Sets Precedent

This case is unique because it represents the first time a district attorney has prosecuted a major oil company to force the compliance and clean-up of every single violation at each gas station location for the entire history of the statute of limitations. A case of this magnitude is very expensive and quite lengthy to litigate. However, although the costs associated with trying this type of case can be prohibitive, District Attorney Rackauckas decided that the potential threat to the drinking water supply in Orange County justified the action. He summarized his position in saying, **"Safe drinking water is a truly priceless commodity and Orange County's supply deserves to be protected."**

The Office of the OCDA committed a record number of attorneys to this litigation, particularly from the Environmental Protection. All were required to develop expertise in both the area of civil litigation and in the highly complex legal area of underground storage tank compliance and clean-up laws. The Orange County Board of Supervisors also approved the hiring of two outside law firms to assist with the litigation of this complex civil case, Robinson, Calcagnie & Robinson, and Lopez, Hodes, Restaino, Milman & Skikos.

In addition, the following local, regional and state departments, boards and agencies played an integral role in the resolution of this lawsuit:

Orange County Health Care Agency; Anaheim, Fullerton, Orange and Santa Ana Fire Departments; South Orange County Water Authority; Santa Ana Regional Water Quality Control Board; San Diego Regional Water Quality Control Board; and State Water Resources Control Board.

The members of the Orange County Hazmat Strike Force Team, a multi-agency task force which meets regularly under the direction of the Orange County District Attorney's Environmental Protection Unit, also worked to assist in the investigation and prosecution of this case.

Settlement Achieves Full Recovery of Costs, Clean-Up and Compliance

The settlement for this case is summarized as follows:

- ARCO must pay \$5 million dollars to reimburse the Office of the Orange County District Attorney and County of Orange for all litigation costs
- ARCO must pay \$3 million dollar for a fund controlled by OCDA to pay for an independent consultant (hydrogeologist) to monitor the clean-up of all identified sites in Orange County
- ARCO is bound to pay for clean-up of all sites regardless of the cost
- ARCO must bring all gas station sites into full compliance

The original civil complaint was filed on January 6, 1999 and named only ARCO as a defendant. The civil complaint was later amended on October 5, 2000 to include additional defendants. Also named in the lawsuit were ARCO Chemical Company, BP Amoco Corporation (also owned by ARCO), Lyondell Chemical Company and Thrifty Oil Company. The lawsuit against ARCO involves 143 active gas station sites in Orange County. The cases against Lyondell Chemical Company and Thrifty Oil remain pending. A separate lawsuit against Shell Oil Company is set to resume in court on March 14th, 2003.

#

DO NOT RELEASE INFORMATION UNTIL 1:00 P.M. PST 12/17/02

Exhibit H

1 ORANGE COUNTY DISTRICT ATTORNEY
2 Tony Rackauckas, District Attorney
3 Bill Feccia, Senior Assistant District Attorney
4 Joe D'Agostino, Assistant District Attorney
5 Consumer and Environmental Protection Unit
6 **Aleta Bryant; Bar No. 125381**, Deputy District Attorney
7 401 Civic Center Drive
8 Santa Ana, CA 92701-4575
9 (714) 347-8720, FAX (714) 568-1250

— In association with —
6 **Mark P. Robinson, Jr., Esq.; Bar No. 054426**

7 **Allan F. Davis, Esq.; Bar No. 108269**
8 ROBINSON, CALAGNIE & ROBINSON
9 620 Newport Center Drive, 7th Floor
10 Newport Beach, CA 92660
11 (949) 720-1288, FAX (949) 720-1292

— and —

12 **Ramon Rossi Lopez, Esq.; Bar No. 86361**
13 **Thomas A. Schultz, Esq.; Bar No. 149578**
14 LOPEZ, HODES, RESTAINO, MILMAN & SKIKOS
15 450 Newport Center Drive, 2nd Floor
16 Newport Beach, CA 92660
17 (949) 640-8222, FAX (949) 640-8294

18 Attorneys for Plaintiff
19 THE PEOPLE OF THE STATE OF CALIFORNIA

20 SUPERIOR COURT OF THE STATE OF CALIFORNIA
21 FOR THE COUNTY OF ORANGE - CENTRAL JUSTICE CENTER

22 THE PEOPLE OF THE STATE OF
23 CALIFORNIA

Case No. 80-40-30

24 Plaintiff,

Assigned for all purposes to:
Judge Jonathan H. Cannon
Department CX102

25 vs.

JHC
[REDACTED] FINAL JUDGMENT
PURSUANT TO STIPULATION AND
ORDER THEREON

26 ATLANTIC RICHFIELD COMPANY, a
27 Delaware corporation doing business as
28 ARCO; BP AMOCO CORPORATION;
ARCO CHEMICAL COMPANY; LYONDELL
CHEMICAL COMPANY; THRIFTY OIL
COMPANY; and DOES 5 through 200,
inclusive;

Defendants.

FINAL JUDGMENT PURSUANT TO
STIPULATION AND ORDER THEREON

FILED
ORANGE COUNTY SUPERIOR COURT

FEB 11 2003

Clerk of the Court
G. Hernandez *CHF*
BY G. HERNANDEZ

1 This Final Judgment Pursuant to Stipulation (this "Final Judgment") is made between the
2 Plaintiff, People of the State of California, by and through its attorney Tony Rackauckas, the
3 District Attorney of the County of Orange ("Plaintiff"), and defendant Thrifty Oil Co. ("Settling
4 Defendant").

5

6 **RECITALS**

7 A. In this action, Plaintiff filed a civil complaint ("First Amended Complaint") in
8 Orange County against Settling Defendant, Lyondell Chemical Company, Atlantic Richfield
9 Company, BP Amoco Corporation and ARCO Chemical Company.

10 B. Plaintiff and Settling Defendant have agreed to settle this action on the terms set
11 forth in this Final Judgment. Plaintiff believes that the resolution of the violations alleged in the
12 First Amended Complaint is fair and reasonable and fulfills the Plaintiff's enforcement objectives,
13 that no further action is warranted concerning the specific violations alleged in the First Amended
14 Complaint except as provided pursuant to the Final Judgment, and that this Final Judgment is in
15 the best interest of the general public. Notwithstanding the foregoing, Plaintiff may bring an
16 action or file a motion with the Court to enforce this Final Judgment pursuant to the terms and
17 conditions hereof.

18

19 **JURISDICTION**

20 1. This Court has jurisdiction of the subject matter and the parties hereto.

21

22 **SETTLEMENT OF DISPUTED CLAIMS**

23 2. Settling Defendant expressly denies the allegations raised by the Plaintiff in the
24 First Amended Complaint and Plaintiff's discovery responses in the above-referenced matter.
25 This Final Judgment is not an admission by Settling Defendant of any issue of law or fact in the
26 above-captioned matter or any violation of any law. The parties enter into this Final Judgment
27 pursuant to a compromise and settlement of disputed claims set forth in the First Amended
28 Complaint and Plaintiff's discovery responses for the purpose of furthering the public interest.

JURISDICTION RETAINED

6.3 Jurisdiction is retained for the purpose of enabling any party to this Final Judgment to apply to the Court at any time for such further orders and directions as may be deemed necessary or appropriate for the construction of or the carrying out of this Final Judgment.

6.4 This Final Judgment will go into effect immediately upon entry hereto. Entry is authorized immediately upon filing.

6.5 This Final Judgment may be executed by the parties in counterpart, and when an authorized representative of each party signs a copy, the stipulation shall be effective as if a single document were signed by all parties.

6.6 This Final Judgment shall not serve to bar, estop, alter, supersede, or interfere with, any investigation, action, order, request, demand or directive of any regulatory agency, person or entity having jurisdiction over the underground storage tank systems at any of the Subject Sites or the groundwater or production wells within the County of Orange, including any investigation, action, order, request, demand or directive of the Orange County Health Care Agency, the applicable Regional Water Quality Control Board, the State Water Resources Control Board or the Orange County Water District pursuant to any of the laws and regulations pertaining to underground storage tanks or water. Plaintiff does not include, and the Orange County District Attorney does not represent, any water district or other municipality; the Orange County Health Care Agency; the Santa Ana Regional Water Quality Control Board; the State Water Resources Control Board; any city; any public or private well owner; or any other individual, regulatory agency, corporation or other entity with an interest in or pertaining to groundwater or production wells located within the County of Orange. This Final Judgment shall not alter or affect the obligations of Settling Defendant to comply with all laws and regulations pertaining to underground storage tanks, including, but not limited to (in each case to the extent applicable): Health and Safety Code, Chapters 6.7 and 6.75; Water Code sections 13285 and 13350; Fish and Game Code sections 5650 and 5650.1; California Code of Regulations, Title 23, Division 3, Chapter 16, the

underground storage tank regulations, and any other applicable laws, statutes, and regulations, and any directive or order of a regulatory agency pursuant to such laws and regulations.

3 6.7 This Final Judgment supersedes all previous negotiations and agreements and
4 constitutes the entire Final Judgment between or among the parties, and no oral statement or prior
5 written material not specifically incorporated herein shall be of any force or effect.

**OFFICE OF THE ORANGE COUNTY DISTRICT
ATTORNEY**

By Tony Rackauckas
Tony Rackauckas
Attorneys for Plaintiff The People of
The State Of California

Approved as to Form:

ROBINSON, CALCAGNIE & ROBINSON

By Mark P. Robinson, Jr.
Mark P. Robinson, Jr.
Attorneys for Plaintiff The People of
The State Of California

**LOPEZ, HODES, RESTAINO, MILMAN &
SKIKOS**

By Ramon Rossi Lopez
Attorneys for Plaintiff The People of
The State Of California

THRIFTY OIL CO.

By 
Barry W. Berkett
Executive Vice President

Approved as to Form:

LAW OFFICES OF MARK B. GILMARTIN

By Mark B. Gilmartin
Mark B. Gilmartin
Attorneys for Settling Defendant

Exhibit I

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
MINUTE ORDER
05-JAN-2005

Dept: CX104 CIVIL COMPLEX CENTER **Convened at:** 9:00:00

Judge/Comm: DAVID C. VELASQUEZ **Clerk:** C. CARR
Bailiff: K. SAMRA **Reporter:** CHARLOTTE FREEMAN,
#3084

Court Type: COMPLEX LITIGATION

Court Category: TOXIC WASTE

Case Number: 804031

Case Title: PEOPLE-STATE OF CALIF VS SHELL OIL CO

Doc Seq No: 163

Event: 510 **STATUS CONFERENCE**

Filing Party: 998/COURT

Appearances:

PLAINTIFF ATTORNEY DISTRICT ATTORNEY-SANTA ANA by Joe D'Agostino, Deputy District Attorney

DEFENDANT ATTORNEY MUNGER TOLLES & OLSON by William Ternko
WATER DISTRICT-
INTERESTED PARTY MILLER, SAWYER & AXLIN by Duane Miller special
appearance

The Court heard argument on the Water District's oral motion for a stay or continuance of this hearing. The Court denied the motion. The Court signed the Final Judgment Pursuant to Stipulation and Order Thereon this date. ENTERED:1-5-05

Exhibit J

Anthony Brown

Page 1059

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 In Re: Methyl Tertiary Butyl Ether :
4 ("MTBE") :
5 Products Liability Litigation :
6 : MDL No. 1358 (SAS)

7 :
8 This document relates to the :
9 following case:
10 :
11 Orange County Water District v. :
12 Unocal Corp., et al., 04 CIV. 4968 :
13 (SAS) : Pages 1059-1283
14 :
15 :
16 :
17 :
18 :
19 :
20 :
21 :
22 :
23 :
24 :
25 :

FEBRUARY 1, 2012

Videotaped Deposition of ANTHONY BROWN,
EXPERT WITNESS, VOLUME VI, held at Latham & Watkins, at
650 Town Center Drive, Suite 2000, Costa Mesa,
California, commencing at 10:17 a.m., on the above date,
before Kimberly S. Thrall, a Registered Professional
Reporter and Certified Shorthand Reporter.

Golkow Technologies, Inc.
877.370.3377 ph | 917.591.5672 fax
deps@golkow.com

Anthony Brown

Page 1111

1 MS. C'REILLY: Same objection.

2 Go ahead.

3 THE WITNESS: The only other ones that I could
4 recall would be related to the assignment we had working
5 for the Orange County District Attorney's Office.

6 BY MR. ANDERSON:

7 Q. Back when the district attorney filed some kind
8 of proceedings against -- as I recall, ARCO was involved
9 and/or Shell and/or Thrifty?

10 A. That is correct.

11 Q. Okay. In that regard, what did you perceive to
12 be Orange County Water District's role that you're
13 thinking of now?

14 A. As best as I can recall, I believe there may
15 have been a meeting or maybe more than one meeting where
16 the Orange County Water District was present, and they
17 were involved as the agency responsible for managing and
18 protecting the res- -- groundwater resources of the
19 coastal plain of Orange County.

20 And the service stations that were the subject
21 of the Orange County District attorney's case --

22 Q. Okay.

23 A. -- at most, if not all, were located within the
24 limits of the Orange County Water District and had
25 releases of contaminants into groundwater.

Anthony Brown

Page 1112

1 Q. So you perceived Orange County Water District
2 being present because they had a very strong interest in
3 what was happening in that situation --

4 MS. O'REILLY: Vague.

5 BY MR. ANDERSON:

6 Q. -- as opposed to them driving the investigation
7 or the -- or the proceedings?

8 MS. O'REILLY: Misstates testimony. Vague.

9 Ambiguous. Overbroad. Assumes facts. Lacks
10 foundation.

11 THE WITNESS: I think that's a reasonable
12 statement, yes.

13 BY MR. ANDERSON:

14 Q. Okay. Now, I told you before we started that
15 I'm here and I'm interested in three specific sites, one
16 being Unocal 5226, one being ConocoPhillips 5792, and
17 the third being World Oil 39.

18 Are those all sites that you're personally
19 familiar with?

20 A. Could you restate them again? Unocal 5226, was
21 it?

22 Q. Yeah. Unocal 5226, ConocoPhillips 5792, and
23 World Oil 39. And they're all among the last eight or
24 nine listed on the first page of Exhibit 36.

25 A. Yes.

Exhibit K

Yamachika, Nira

From: Herndon, Roy
Sent: Tuesday, November 07, 2000 9:28 AM
To: Yamachika, Nira
Subject: RE: MTBE Update

Nira,

Here is a hit list on recent MTBE issues:

1. OCDA Lawsuit against ARCO

Last month the OCDA, Tony Rackauckas, received the go-ahead from the judge to proceed with his lawsuit against ARCO for contamination from numerous LUFT sites. ARCO was identified as the worst of the oil companies in terms of numbers of sites impacted and inadequate response, although other oil companies could be brought in for similar actions in the future. The OCDA is seeking monetary penalties from ARCO for its inaction over the years and a commitment to investigate and cleanup its sites. The suit could settle soon or go on for 2-3 years, according to my contacts at the DA's office. OCWD supports the efforts of the DA to expedite cleanup actions by responsible parties.

2. Report of MTBE reaching "deep" aquifer:

The week following the DA's press conference on Item #1, a news story broke in the OC Register that MTBE had reached the "deep" aquifer in Fountain Valley. The story apparently originated at the DA's office and was based on the finding of MTBE at approx. 940 ug/L at a depth of 60 feet in the Talbert aquifer at the ARCO station at Brookhurst Ave. and Ellis Ave. OCWD was contacted to confirm this finding, and we were fortunate to have been aware of this finding for several months. We had some discussion as to what defined "deep", and concluded that it was subjective, but that the finding of MTBE below the semi-perched (shallowmost) aquifer shows that the downward migration of MTBE is a threat to our potable supplies and demonstrates the need for cleanup of MTBE-impacted sites.

3. RWQCB Draft MTBE Guidance Document

Ken Williams has drafted a local guidance document for the Santa Ana RWQCB that was intended to be more stringent than the state-wide document adopted by the SWRCB. The impetus for the Santa Ana RWQCB to prepare a more stringent document stems from the OCDA's request for a document that more realistically treats the importance of the groundwater resources and hydrogeology of Orange County and other groundwater basins within the SARWQCB's area. I have not read the document, so I cannot comment as to how much more stringent the document is compared to the SWRCB's version. The document was to be presented at the Nov. 17 RWQCB meeting as an informational item, but I just heard that the item had been deferred to an unknown later date.

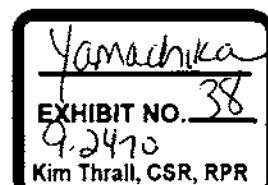
4. Concerto MTBE Investigation

Ken Williams required the 3 oil companies to construct an initial set of 5 monit. wells as part of its initial phase of investigation to characterize the nature and extent of MTBE that has impacted the Concerto #1 and #2 and Ballad wells in the east Anaheim area. The oil companies have committed to undertake this investigation, which will also include a groundwater flow model.

-----Original Message-----

From: Yamachika, Nira
Sent: Thursday, November 02, 2000 10:12 AM
To: Herndon, Roy

11/07/2000



Subject: MTBE Update

Roy:

I need to provide the WQ committee at ACWA next week with an update on recent MTBE activities. Could you send me an email highlighting the meetings and MTBE issues that have occurred in the past 2 weeks that I was on vacation? This would include the regulatory issues and involvement with the DA with ARCO and pending enforcement action. Thanks.

11/07/2000

OCWD-MTBE-001-038690

Exhibit L

Safe Drinking Water Subcommittee Meeting
ACWA Fall Conference, Anaheim CA
November 8, 2000, 2:45 pm – 4:25 pm

Other Informational Items

Chromium

- 77% OCWD wells are < 1 ppb total chromium; DLR = 1ppb; October DLR = 0.2 ppb
- 23% total Cr > 1ppb < 7 ppb (1993-2000 data)
- Coming on-line in early 2001 to test Cr(VI) at low levels (i.e. 0.5 ppb)

MTBE

- EOCWD, Richard Barrett wrote letter to Senator Feinstein requesting her assistance to help CA obtain a waiver from EPA on the oxygenate content in gasoline. Senator Feinstein replied (10/5/2000) that she asked EPA for a waiver of the 2%percent requirement for CA and has met several times with EPA officials and spoke (and written) with Administrator Carol Browner. EPA has not granted the waiver. Barrett replied asking Senator Feinstein why Carol Browner has not granted the waiver.
- OCDA Lawsuit against ARCO

Last month the OCDA, Tony Rackauckas, received the go-ahead from the judge to proceed with his lawsuit against ARCO for contamination from numerous LUFT sites. ARCO was identified as the worst of the oil companies in terms of numbers of sites impacted and inadequate response, although other oil companies could be brought in for similar actions in the future. The OCDA is seeking monetary penalties from ARCO for its inaction over the years and a commitment to investigate and cleanup its sites. The suit could settle soon or go on for 2-3 years (per DA's office staff). OCWD supports the efforts of the DA to expedite cleanup actions by responsible parties.

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a threat to our potable supplies and demonstrates the need for cleanup of MTBE-impacted sites.

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NDMA

- The 4-month running average for WF21 ~19.8 ppt with our regulatory limit of <20 ppt. Deep well water is being used as the primary source of injection water. OCSD is continuing with their source investigation program to reduce the amount of NDMA coming into the treatment plant.
- OCWD initiated a quarterly NDMA monitoring program of all nearby production wells to monitor and track NDMA movement. No additional wells have been found to contain NDMA from the initial screening conducted in May-June, 2000.